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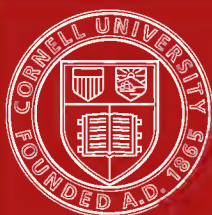
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THE WAR REVENUE LAW OF 1898
EXPLAINED.

THE
WAR REVENUE LAW OF 1898
EXPLAINED.

BY

JOHN M. GOULD,

JOINT AUTHOR OF GOULD AND TUCKER'S "NOTES ON THE REVISED
STATUTES OF THE UNITED STATES AND THE SUBSEQUENT
LEGISLATION OF CONGRESS," ETC.

AND

EDWARD H. SAVARY,

AUTHOR OF "BUILDERS' HANDBOOK," ETC.

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P R E F A C E.

THE WAR REVENUE LAW OF 1898 touches the business world at every point, and a thorough collection of all authorities interpreting its provisions must, therefore, be of value to all whose interests are within their scope. The present work contains the text of the law; indicates the sources of the different sections; and, in connection with each section, presents such rules of interpretation as the government authorities and the decisions of the courts upon previous laws, from which the present Act is in great part derived, now make applicable; also the decisions of the English courts upon similar provisions of British Stamp Acts. In the Appendix, together with certain regulations of the Bureau of Internal Revenue, will be found a valuable paper prepared by the Abstract Club of Boston, upon the practical workings of the law in relation to real estate transactions, and here included by their permission. In this matter we have especially to thank Charles S. Rackemann, Esq., of the Boston Bar, a member of that club, for his kind offices. The authors are also indebted to George P. Beckford, Esq., and George E. Fox, Esq., both of the Boston Bar, for their aid in the preparation of the book and the verification of authorities.

BOSTON, Sept. 10, 1898.

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THE WAR REVENUE LAW OF 1898 EXPLAINED.

Sources of the Law.—The War Revenue Law of 1898 has been chiefly derived from the Revised Statutes of the United States, Title XXXV., and the amendments thereof, which may be found in volumes I. and II. of Gould and Tucker's Notes on the Revised Statutes; also from the following Acts of Congress: Act of July 1, 1862 (12 Stats. 432, 479, ch. 119, § 110); Act of March 3, 1863 (12 Stats. 713, 720, ch. 74, § 6); Act of June 30, 1864 (13 Stats. 223, ch. 173); Act of March 3, 1865, ch. 78, § 1 (Id. 469); Act of July 13, 1866, ch. 184 (14 Stats. 98); Act of June 23, 1874, ch. 462, § 1 (18 Stats. 250, ch. 462).

The great prototype of the present law is the above Act of June 30, 1864, in which Congress, under stress of necessity and great war liabilities, showed remarkable capacity for devising means of taxation.

General Principles.—Statutes of taxation are construed in favor of the tax payer. (a) Where the government is interested, statutory grants of property, franchises, or privileges will be strictly construed in its favor. (b) Statutes relating to frauds upon the revenue, through imposing penalties, are to be so construed as to carry out the intent, and not strictly in the defendant's favor, like penal laws. (c)

Collection Districts.—The collection of the revenues of this law is intrusted to the Commissioner of Internal Revenue and his

(a) *American Net & Twine Co. v. Worthington*, 141 U. S. 468; *Rice v. United States*, 53 F. R. 910.

(b) *Coosaw Mining Co. v. State*, 144 U. S. 550.

(c) *United States v. Stowell*, 133 U. S. 1; *United States v. Brown, Deady*, 566; *The Coquitlam*, 57 F. R. 706.

collectors and assistants, and the country is divided into the following collection districts, under an executive order of May 21, 1887. The irregularity in numeration is caused by the retention of the original numbers of the districts with which others have been consolidated:—

- Alabama.** Collector's office, Birmingham.
- Alaska.** Attached to District of Oregon. Collector's office, Portland.
- Arizona.** Attached to New Mexico. Collector's office, Santa Fé.
- Arkansas.** Collector's office, Little Rock.
- California.** First district, collector's office, San Francisco; fourth district, collector's office, Sacramento.
- Colorado.** Including Wyoming. Collector's office, Denver.
- Connecticut.** Including Rhode Island. Collector's office, Hartford.
- Delaware.** Attached to Maryland. Collector's office, Baltimore.
- Florida.** Collector's office, Jacksonville.
- Georgia.** Collector's office, Atlanta.
- Idaho.** Attached to Montana. Collector's office, Helena.
- Illinois.** First district, collector's office, Chicago; fifth district, Peoria; eighth district, Springfield; thirteenth district, Cairo.
- Indiana.** Sixth district, collector's office, Lawrenceburgh; seventh district, collector's office, Burlington.
- Iowa.** Third district, collector's office, Dubuque; fourth district, collector's office, Burlington.
- Kansas.** Including Indian Territory and Oklahoma. Collector's office, Leavenworth.
- Kentucky.** Second district, collector's office, Owensborough; fifth district, collector's office, Louisville; sixth district, collector's office, Covington; seventh district, collector's office, Lexington; eighth district, collector's office, Richmond.
- Louisiana.** Including Mississippi. Collector's office, New Orleans.
- Maine.** Attached to New Hampshire. Collector's office, Portsmouth.
- Maryland.** Including Delaware, District of Columbia, and two counties of Virginia. Collector's office, Baltimore.
- Massachusetts.** Collector's office, Boston.
- Michigan.** First district, collector's office, Detroit; fourth district, collector's office, Grand Rapids.
- Minnesota.** Collector's office, St. Paul.
- Mississippi.** Attached to Louisiana. Collector's office, New Orleans.
- Missouri.** First district, collector's office, St. Louis; sixth district, collector's office, Kansas City.
- Montana.** Including Idaho and Utah. Collector's office, Helena.
- Nebraska.** Including North Dakota and South Dakota. Collector's office, Omaha.
- Nevada.** Attached to fourth district of California. Collector's office, Sacramento.
- New Hampshire.** Including Maine and Vermont. Collector's office, Portsmouth.

New Jersey. First district, collector's office, Camden; fifth district, collector's office, Newark.

New Mexico. Including Arizona. Collector's office, Santa Fé.

New York. First district, collector's office, Brooklyn; second district, New York; third district, New York; fourteenth district, Albany; twenty-first district, Syracuse; twenty-eighth district, Rochester.

North Carolina. Fourth district, collector's office, Raleigh; fifth district, collector's office, Asheville.

North Dakota. Attached to Nebraska. Collector's office, Omaha.

Ohio. First district, collector's office, Cincinnati; tenth district, collector's office, Toledo; eleventh district, collector's office, Springfield; eighteen district, collector's office, Cleveland.

Oregon. Including Washington and Alaska. Collector's office, Portland.

Pennsylvania. First district, collector's office, Philadelphia; ninth district, collector's office, Lancaster; twelfth district, collector's office, Scranton; twenty-third district, collector's office, Pittsburgh.

Rhode Island. Attached to Connecticut. Collector's office, Hartford.

South Carolina. Collector's office, Columbia.

South Dakota. Attached to Nebraska. Collector's office, Omaha.

Tennessee. Second district, collector's office, Knoxville; fifth district, collector's office, Nashville.

Texas. Third district, collector's office, Austin; fourth district, collector's office, Dallas.

Utah. Attached to Montana. Collector's office, Helena.

Vermont. Attached to New Hampshire. Collector's office, Portsmouth.

Virginia. Second district, collector's office, Richmond; sixth district, Lynchburg.

Washington. Attached to Oregon. Collector's office, Portland.

West Virginia. Collector's office, Parkersburg.

Wisconsin. First district, collector's office, Milwaukee; second district, collector's office, Madison.

Wyoming. Attached to Colorado. Collector's office, Denver. (a)

The War Revenue Law of 1898, entitled "**An Act to provide ways and means to meet war expenditures, and for other purposes,**" provides by § 1 —

"That there shall be paid, in lieu of the tax of one dollar now imposed by law, a tax of two dollars on all beer, lager beer, ale, porter, and other similar fermented

(a) Eldridge, U. S. Int. Rev. System, p. 70; Rev. Stats. § 3141; Report of the Commissioner of Internal Revenue to the Secretary of the Treasury of August 8, 1898, pp. 7, 8.

liquors, brewed or manufactured and sold, or stored in warehouse, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law. And section thirty-three hundred and thirty-nine of the Revised Statutes is hereby amended accordingly: *Provided*, That a discount of seven and one-half per centum shall be allowed upon all sales by collectors to brewers of the stamps provided for the payment of said tax: *Provided further*, That the additional tax imposed in this section on all fermented liquors stored in warehouse to which a stamp had been affixed shall be assessed and collected in the manner now provided by law for the collection of taxes not paid by stamps."

Sect. 3339 of the United States Revised Statutes is as follows:—

"There shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, brewed or manufactured and sold, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, a tax of one dollar for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for any fractional part of a barrel. In estimating and computing such tax, the fractional parts of a barrel shall be halves, thirds, quarters, sixths, and eighths; and any fractional part of a barrel containing less than one-eighth shall be accounted one-eighth; more than one-eighth, and not more than one-sixth, shall be accounted one-sixth; more than one-sixth, and not more than one-fourth, shall be accounted one-fourth; more than one-fourth, and not more than one-third, shall be accounted one-third; more than one-third, and not more than one-half, shall be accounted one-half; more than one-half, and not more than one barrel, shall be accounted one barrel; and more than one barrel, and not more than sixty-three gallons, shall be accounted two barrels, or a hogshead. The said tax shall be paid by the owner, agent, or superintendent of the brewery or premises in which such

fermented liquors are made, and in the manner and at the time hereinafter specified.”

A special tax of one hundred dollars per year is imposed by Rev. Stats. § 3244 upon brewers who manufacture five hundred or more barrels per year, and of fifty dollars upon those who manufacture less than five hundred barrels. This tax is paid by means of stamps, and evidence of it must be posted in the brewer's place of business. By § 3335 he must give notice to the collector of his intention to begin business, which notice must contain a description of the premises on which the brewery is situated; his name and the names of the members of the firm, if any; the place of residence of each; his or their title to the premises, and the name of the owner thereof.

By § 3336, amended in 1886, at least once in four years he must give bond, that he will pay the internal revenue taxes, that he will keep a book hereinafter described, and that he will comply with the laws. In this book he must, by § 3337, enter from day to day the kind and estimated quantity produced in barrels, and the actual quantity sold, or removed for consumption or sale, and in a separate book an account of all materials purchased for the purpose of producing fermented liquors. On or before the tenth day of each month he must make a sworn statement to the collector from these entries of the estimated quantity brewed, and the actual quantity sold or removed, and the entries must also be verified by oath. The tax is paid by means of stamps, and there can be no removal of the liquor from the brewery to the warehouse unstamped, without a permit of the collector. Rev. Stats. §§ 3342, 3345. The stamp affixed by the brewer is to be placed upon the spigot hole so that the stamp will be destroyed when the vessel is tapped. The stamp is cancelled by placing thereon the manufacturer's name or initials and the date of cancellation. Before the vessel can be sold or removed it must also, by § 3349, be marked with the name of the maker and place of manufacture. The only exception is where one brewer purchases from another malt liquor ready for sale. (a)

If it is found that the brewer has failed to pay the tax or any part thereof, the Commissioner can, under § 3182, make an assessment for all liquor which has not paid the tax by stamps, which assessment is sent to the collector to collect. This manner of collecting is evidently that referred to in the last proviso of section one of the present Act. (b) Commissions to purchasers of internal

(a) See Burroughs on Taxation, § 169; Eldridge, U. S. Int. Rev. Tax System, ch. 5; Rev. Stats. § 3335-3354, and amendments.

(b) See Rev. Stats. § 3447.

revenue stamps are to be paid in cash. The Commissioner has no power to pay them in stamps. Commissions are to be paid whether the purchaser pays cash or secures a credit of sixty days and gives bond. (a) This is important in connection with the next to the last proviso of section one.

Brewers can sell from their brewery original stamped packages without paying a special tax as wholesale liquor dealers. (b)

The word "gallon," wherever used in the internal revenue law, relating to beer, lager beer, ale, porter, and other similar fermented liquors, means "a wine gallon, the liquid measure containing two hundred and thirty-one cubic inches." (c)

Where a brewer found that he had manufactured less than five hundred barrels during the year, and the Commissioner allowed him a refund of \$50, the Court of Claims enforced this award. (d)

The Commissioner may issue stamps for restamping packages of distilled spirits, tobacco, cigars, snuff, cigarettes, and fermented liquors which have been duly stamped, but from which the stamps have been lost or destroyed by unavoidable accident; (e) and merchandise stamps, when spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or when the rates or duties represented thereby have been excessive in amount, paid in error, or wrongfully collected, may, when the stamps have been returned to the Commissioner, or a satisfactory reason is given why they cannot be returned, be allowed for or redeemed. (f)

(a) See § 3425; *United States v. Fielding*, 3 McCrary, 479; 17 F. R. 572; *Swift Co. v. United States*, 111 U. S. 22; *Diamond Match Co. v. United States*, 31 F. R. 271; 24 Blatch. 442; *Swift Co. v. United States*, 105 U. S. 691; *Bechtel v. United States*, 101 U. S. 597.

(b) *Underhill v. Pleasonton*, 8 Blatch. 260.

(c) 20 Stats. 327, § 21; 16 A. G. Op. 361.

(d) *United States v. Kaufman*, 96 U. S. 567; *Kaufman's Case*, 11 Ct. Cl. 659.

(e) Rev. Stats. § 3315, amended by the Act of March 1, 1879 (20 Stats. 338); *Eldridge*, 306.

(f) Rev. Stats. § 3426, amended by sec. 17 of the Act of 1879 (20 Stats. 349).

Special Taxes.—“**Sect. 2.** That from and after July first, eighteen hundred and ninety-eight, special taxes shall be, and hereby are, imposed annually as follows, that is to say:”—

Bankers shall pay \$50 when employing a capital not exceeding \$25,000, and \$2 additional for every \$1,000 employed in excess of \$25,000.

“One. Bankers using or employing a capital not exceeding the sum of twenty-five thousand dollars shall pay fifty dollars; when using or employing a capital exceeding twenty-five thousand dollars, for every additional thousand dollars in excess of twenty-five thousand dollars, two dollars, and in estimating capital surplus shall be included. The amount of such annual tax shall in all cases be computed on the basis of the capital and surplus for the preceding fiscal year. Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, shall be a banker under this Act: *Provided*, That any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning or investing the same for the benefit of its depositors, and which does no other business of banking, shall not be subject to this tax.”

Brokers shall pay \$50.

“Two. Brokers shall pay fifty dollars. Every person, firm, or company, whose business it is to negotiate

purchases or sales of stocks, bonds, exchange, bullion, coined money, bank-notes, promissory notes, or other securities, for themselves or others, shall be regarded as a broker: *Provided*, That any person having paid the special tax as a banker shall not be required to pay the special tax as a broker."

Pawnbrokers shall pay \$20.

"Three. Pawnbrokers shall pay twenty dollars. Every person, firm, or company whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be deemed a pawnbroker."

Commercial Brokers shall pay \$20.

"Four. Commercial brokers shall pay twenty dollars. Every person, firm, or company whose business it is as a broker to negotiate sales or purchases of goods, wares, produce, or merchandise, or to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded as a commercial broker under this Act."

Custom-House Brokers shall pay \$10.

"Five. Custom-house brokers shall pay ten dollars. Every person, firm, or company whose occupation it is, as the agent of others, to arrange entries and other custom-house papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded as a custom-house broker."

Proprietors of Theatres, Museums, and Concert Halls shall pay \$100.

“Six. Proprietors of theatres, museums, and concert halls in cities having more than twenty-five thousand population as shown by the last preceding United States census, shall pay one hundred dollars. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls rented or used occasionally for concerts or theatrical representations, shall be regarded as a theatre: *Provided*, That whenever any such edifice is under lease at the passage of this Act, the tax shall be paid by the lessee, unless otherwise stipulated between the parties to said lease.”

Proprietors of Circuses shall pay \$100.

“Seven. The proprietor or proprietors of circuses shall pay one hundred dollars. Every building, space, tent, or area where feats of horsemanship or acrobatic sports or theatrical performances are exhibited, shall be regarded as a circus: *Provided*, That no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be imposed for exhibitions within any one State, Territory, or District.”

Proprietors or Agents for all Public Exhibitions or Shows for money not enumerated shall pay \$10.

“Eight. Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay ten dollars: *Provided*, That a special tax paid in one State, Territory, or the District of

Columbia shall not exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be required for exhibitions within any one State, Territory, or the District of Columbia."

Proprietors of Bowling Alleys and Billiard Rooms shall pay for each Alley or Table \$5.

"Nine. Proprietors of bowling alleys and billiard rooms shall pay five dollars for each alley or table. Every building or place where bowls are thrown or where games of billiards or pool are played, and that are open to the public with or without price, shall be regarded as a bowling alley or a billiard room, respectively."

The above named special tax payers are liable to tax on and after July 1, 1898. (a)

This section was chiefly taken from the occupation and privilege taxes in the Act of June 30, 1864, and of July 13, 1866.

A "sovereignty may, in the discretion of its legislature, levy a tax on every species of property within its jurisdiction, or, on the other hand, it may select any particular species of property and tax that only, if in the opinion of the legislature that course will be wiser. What is true of property is true of privileges and occupations also; the State may tax all, or it may select for taxation certain classes and leave the others untaxed. Considerations of general policy determine what the selection shall be in such cases, and there is no restriction on the power of choice unless one is imposed by constitution. In another chapter it has been shown that constitutional provisions requiring the taxation of property by value have no application to the taxation of other subjects, and do not therefore, by implication, forbid the taxation now under consideration." (b)

The special tax is similar to the license taxes of the States. A person wishing to engage in one of the occupations specially taxed

(a) Circular No. 497, of June 25, 1898.

(b) Cooley on Taxation (2d ed.), 570; Butler's Appeal, 73 Penn. St. 448-451. On the constitutionality of such laws, see License Tax Cases, 5 Wall. 462.

must register with the collector of his district his place of residence, trade or business, and the place where the business is to be transacted. If there is a firm, the names of all its members are to be given. If more than one occupation is followed, whether at the same or different places, a tax is to be paid for each occupation or place of business. Stamps are procured from the collector. The stamps denoting the payment of the tax must be posted in some conspicuous position in the place of business, and the collector is required to keep in his office, in a prominent place for public inspection, an alphabetical list of persons who have paid the special tax. The tax is for the year, and in case of the death of the party his representatives may continue the business without the payment of any additional tax; and so in case of removal of the place of business. (a)

Such laws give no authority to carry on the licensed business within a State by whose laws it is prohibited. (b) The tax must be paid in advance. (c) The Commissioner has just ruled that merchandise brokers are commercial brokers, and are therefore subject to the special tax. He has also ruled that merchants, warehousemen, auctioneers, and cattle brokers who receive goods, produce of any kind, or live stock, are not commercial brokers. (d) When a firm has paid the special tax, and subsequently one of the partners purchases the entire interest, and becomes sole owner of the business, he may carry it on at the same place for the balance of the term for which the tax is paid without again paying such tax. (e) The paying of a special tax does not exempt a person from paying another special tax for doing business at a place other than that stated in the collector's register. (f) Wherever there is more than one pursuit liable to a special tax carried on at the same place and time, each is taxed. (g) Every place of business must pay

(a) Burr. Tax. 617, 618; Rev. Stats. §§ 3232-3244. On penalties, see Rev. Stats. § 3239. As to the meaning of the words "place where business is to be carried on," see *Salt Co. v. Wilkinson*, 8 Blatch. 30.

(b) License Tax Cases, 5 Wall. 462.

(c) *United States v. Clare*, 2 F. R. 55; 14 Phila. 543.

(d) Commissioner's Rulings, July, 1898.

(e) *United States v. Glab*, 99 U. S. 225; see *United States v. Feigelstock*, 14 Blatch. 321; *Pervear v. Commonwealth*, 5 Wall. 475; *United States v. Nelson*, 29 F. R. 208; *United States v. Kaufman*, 96 U. S. 567; *Kaufman's Case*, 11 Ct. Cl. 659; *Gormely v. Gymnastic Assn.*, 13 N. W. Rep. 244; *United States v. Pressy*, 1 Lowell, 319.

(f) Rev. Stats. § 3235; *Crisp v. Proud*, 4 Hughes, 57; *Tucker v. Slack*, Holmes, 485; *Slack v. Tucker*, 23 Wall. 321.

(g) Rev. Stats. § 3236; *Crisp v. Proud*, 4 Hughes, 57.

a special tax, but a place where goods are stored or manufactured, and not sold, need not be paid for in addition. (a) Regulations made by the Commissioner have the force of statutes respecting the assessment and collection of taxes. (b) Special tax payers must render their returns to the collector within the calendar month in which liability began, except in case of sickness or absence. (c) Instructions have also been sent out to the different collectors by the Commissioner that the special tax payers must pay the special tax before July, 1898, ends. Notice must be given to the collector of death, change, or removal. (d) If, upon the dissolution of an old firm, a new one takes its place, there must be a new special tax. (e)

It has just been decided by the Commissioner that under the present Act bucket-shop proprietors giving memoranda of transactions are required to pay a special tax as brokers, and that a club need not pay a special tax for its billiard and pool tables. (f) The list of special tax payers includes bankers, brokers, commercial brokers, pawnbrokers, custom-house brokers, proprietors of theatres, museums, concert halls, circuses, public exhibitions, bowling alleys, billiard rooms, shows for money, dealers in leaf tobacco, dealers in tobacco, manufacturers of tobacco, manufacturers of cigars, dealers in oleomargarine, manufacturers of oleomargarine, brewers, rectifiers, dealers in malt and spirituous liquors, refiners of sugar, refiners of petroleum, manufacturers or packers of mixed flour. (g)

A State law taxing or prohibiting a business already taxed by Congress is constitutional. (h) If a man intends to pay the tax,

(a) Rev. Stats. § 3235; 18 Int. Rev. Rec. 81; 19 Id. 153; 22 Id. 157.

(b) *In re Huttman*, 70 F. R. 699; *In re Weeks*, 82 F. R. 729.

(c) Rev. Stats. § 3237, as amended by § 53, Act of October 1, 1890.

(d) *Ibid.* § 3241.

(e) Decision No. 178, Int. Rev. Reg. Series 7, No. 1, p. 30.

(f) Commissioner's Ruling, No. 22, of July 13, 1898.

(g) Rev. Stats. Title 35, ch. 3, and the present Act. On bankers doing business as brokers, see *Clark v. Gilbert*, 5 Blatch. 330; *Northrup v. Shook*, 10 Blatch. 243; 4 Int. Rev. Rec. 42; 11 A. G. Op. 482; *United States v. Cutting*, 3 Wall. 441, 445; *Collector v. Doswell*, 16 Wall. 156; *Warren v. Shook*, 91 U. S. 704. On stock brokers, see *Clark v. Gilbert*, 5 Blatch. 330; *Northrup v. Shook*, 10 Blatch. 243; *United States v. Cutting*, 3 Wall. 441; *Collector v. Doswell*, 16 Wall. 156. On cattle brokers, see *United States v. Kenton*, 2 Bond, 97. On produce brokers, see *United States v. Simons*, 1 Abb. U. S. 470; 7 Phila. 607.

(h) Rev. Stats. § 3243; *Pervear v. Commonwealth*, 5 Wall. 475; *McGuire v. Commonwealth*, 3 Wall. 387; *License Tax Cases*, 5 Wall. 462; *Commonwealth v. Sheckels*, 78 Va. 36; *Commonwealth v. Mills*, 157 Mass. 405; *Plumley v. Massachusetts*, 155 U. S. 461, 466; *United States v. Eaton*, 144 U. S. 677; 37 Int. Rev. Rec. 77, 229; *In re Worthen*, 58 F. R. 467; *Ex parte Scott*, 66 Id. 45.

and the officers give him a few days' indulgence, this will not subject him to the penalty. (a) The extent of the liability incurred by carrying on a business subject to a special tax without having paid the tax is explained in the cases cited in the note. (b)

A public driving-park is held not to be a theatre, show, etc. (c) A person in possession and control of a billiard table is liable for the tax. (d) A corporation whose business is confined to the investment of its capital in bonds secured by a mortgage on real estate, and to the negotiation, sale, and guaranty of them, is not a bank or banks within the meaning of Rev. Stats. § 3407. (e) The selling of its own stocks, bonds, etc., does not make of a company a banking institution. (f)

An action for money had and received is maintainable against a collector of internal revenue for duties or taxes erroneously or illegally assessed and collected when the payment has been made under protest and with notice of an intention to bring a suit to test the validity of the claim. (g) There is no strict rule that a protest against the exaction of an excessive internal revenue tax must be in writing or in any particular form. Some sort of protest is necessary, but any which shows that the payment is not voluntarily made is sufficient to save the right of suing to recover it back. (h)

Under Rev. Stats. § 3226, providing that "no suit shall be maintained in any court for the recovery of any internal tax alleged to have been erroneously or illegally assessed or collected," "until appeal shall have been duly made to the Commissioner of Internal Revenue," and "a decision of the Commissioner has been had thereon," an action cannot be maintained against a collector for an illegal assessment made and collected until an appeal has been taken to the Commissioner of Internal Revenue, who must render his decision therein within six months from the date of such appeal. (i)

Sections 3226, 3227 further provide that if such decision is delayed more than six months from the date of such appeal, then the

(a) *United States v. Pressy*, 1 Lowell, 319.

(b) 22 Int. Rev. Rec. 138; *In re Lindauer*, 7 Blatch. 249.

(c) 25 Int. Rev. Rec. 359.

(d) *United States v. Howard*, 1 Sawyer, 507; 13 Int. Rev. Rec. 118.

(e) *Selden v. Equitable Trust Co.*, 94 U. S. 419.

(f) *Ibid.*

(g) *Philadelphia v. Collector*, 5 Wall. 720; *Cutting v. Gilbert*, 5 Blatch. 259; *Nelson v. Carman*, Id. 511.

(h) *Wright v. Blakeslee*, 101 U. S. 174.

(i) *Coblens v. Abel*, Woolw. 293.

said suit may be brought, without first having a decision of the Commissioner, at any time within two years from the time the cause of action first accrued, and when the matter is pending before the Commissioner, within one year after such decision.

In Circular No. 508, of August 8, 1898, the Commissioner has just issued the following special tax rulings:—

1. *Banks.*—Undivided profits should be considered as surplus in estimating the tax due from banks, the amount to be estimated by taking the average for the preceding year.

2. Private banks having no capital stock are subject to tax as bankers.

3. In computing special tax of banks whose capital exceeds \$25,000, if excess is less than \$1,000, it is not to be considered.

4. In estimating the amount of special tax to be paid by a bank, based upon capital and surplus, the amount invested in United States bonds is not to be deducted.

5. The amount invested by a bank in the bank building is not to be deducted from capital and surplus.

6. A bank in liquidation, doing no business except collecting and dividing assets in closing, is not required to pay special tax.

7. A bank engaged in business in the month of July must pay special tax for the entire year beginning July 1, 1898.

8. A trust company is liable as a banker if it comes within any one of the three clauses of definition in paragraph 1, section 2, of the Act, viz.:—

“Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale.”

9. Borrowed capital must be taken into account when estimating amount of special tax required from bankers.

10. It is not the subscribed capital, but the capital actually employed during the preceding fiscal year, that is to be taken as the basis for estimating the special tax required to be paid.

11. *Brokers.*—The loaning of money for one's self or for others, on commission, does not subject the lender to special tax as a broker; but if a person makes it a business to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes,

promissory notes, or other securities, for himself or others, he is required to pay the special tax as a broker. "It is only when making sales and purchases in his business, his trade, his profession, his means of getting his living, or making his fortune, that he becomes a broker within the meaning of the statute." (*Warren et al. v. Shook*, 91 U. S. 704.)

12. Persons or firms acting as agents for resident or non-resident parties, loaning money upon promissory notes, secured by mortgages, are not brokers within the meaning of the Act, and are not liable to the special tax provided for brokers.

13. A lawyer can make investments for clients without being liable, unless he does it to such an extent that it can be called a "business."

14. Loan and mortgage companies are not liable as brokers for loaning money on notes or bonds secured by mortgage or trust deed on real estate. If they purchase notes, bonds, or other securities, they become liable as brokers.

15. Persons whose practice it is to buy fee bills of witnesses are not brokers. Such paper is not properly described by any of the terms used in the law, to wit, "stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities."

16. A person engaged in the business of placing loans which are secured by notes and mortgages upon real estate, acting simply as agent for the party furnishing the money, receiving a commission for his services in obtaining the application for the loan and attending to the execution of the papers, is not a broker.

17. A person engaged in the business of selling real estate, acting as the agent of the owner in finding purchasers and receiving a commission for his services, is not a broker.

18. When persons "shave notes" or negotiate purchases or sales of promissory notes, if these are only occasional acts and do not constitute their regular business, they are not brokers within the meaning of the Act.

19. Bucket-shop proprietors giving memorandum of transactions are required to pay special tax as brokers.

20. If an agent transacts the general business of a broker for the principal, paying over moneys to the customers, etc., the special tax of \$50 must be paid for the place where this business is done, and the requisite stamp posted up therein.

This tax may be paid by the principal himself, and the stamp taken out in his name (which is preferable), or it may be paid by the agent and the stamp taken out in his name.

The principal special-tax stamp for his place of business in an-

other city covers the transactions only at that place of business, and cannot cover the business done elsewhere at a branch office.

21. Broker's tax is not required to be paid at branch offices where a clerk is employed, whose sole duty is to receive orders and transmit them by wire to the head of the office. The mere receipt and transmission by clerks of orders is not regarded as the carrying on the business of a broker.

22. *Commercial Brokers.*—Commercial brokers, within the meaning of the act, are those persons only who, without having in their possession goods, wares, or merchandise, negotiate sales or purchases thereof on commission.

23. Commission merchants who receive goods in possession to sell for others are not commercial brokers within the meaning of the statute.

24. Cattle brokers, who receive and sell cattle on commission, are not required to pay special tax as commercial brokers.

25. A person who is employed by certain firms to solicit and receive orders, on commission, for their goods, and is bound by his agreement with them to give his entire services to them to the exclusion of other firms or persons, is not regarded as a commercial broker within the meaning and intent of the law.

26. Warehousemen who receive tobacco, cotton, or any other produce or goods on consignment, for sale on commission, are not liable as commercial brokers.

27. Auctioneers who receive and sell goods at their auction rooms or on the premises of the owners, on commission, are not subject to special tax as commercial brokers.

28. Drug brokers are properly included under the head of commercial brokers, and are subject to the special tax of \$20.

29. If cotton buyers have possession of cotton which they sell, they are not liable as commercial brokers. If they have not, and sell on commission, they are liable.

30. *Pawnbrokers.*—A person is not required to pay a special tax as a pawnbroker for rare or occasional acts, which cannot be regarded as his business or occupation.

31. *Custom-house Brokers.*—If the complete business of custom-house brokers is transacted by parties at offices at different ports of one district, a separate and distinct special tax must be paid for each of their offices, under the provisions of section 3235, Revised Statutes, which apply as well to special taxes under the war revenue Act as to all other special taxes.

32. *Billiards.*—Social clubs open only to members are not required to pay special tax on billiard tables, but if liquor is sold to members they are liable to special tax as retail liquor dealers.

33. *Theatres, Museums, etc.* — Persons are not required to pay special tax for the mere occasional renting of their hall for public performances to dramatic companies or other persons charging entrance money therefor, but the special tax of \$10 is required to be paid by such persons or companies if they give dramatic performances or the other exhibitions specifically mentioned in paragraph 8, section 2, of the Act.

34. Where theatres are entirely closed to performances during the months of July and August, and only open in the month of September, the special tax is to be reckoned from the 1st day of September to the 1st day of July following, at the rate of \$100 for the year beginning July 1.

35. *Circuses and Theatrical Performances.* — Exhibitions of feats of horsemanship (such as are seen in circuses), which occur on race tracks, are subject to a special tax of \$100 ; but mere tests of speed of horses in racing are not regarded as “feats of horsemanship” within the meaning of paragraph 7 of section 2, Act of June 13, 1898.

36. Variety shows, whether given at summer resorts or elsewhere, which include “acrobatic sports,” come within the definition of a circus in the statute which requires special tax therefor.

37. When a circus is exhibiting in any State in the month of July, the special tax of \$100 is required to be paid for the year beginning July 1. If in the following month the circus goes into another State, the special tax at the rate of \$100 for the year is to be reckoned from the 1st day of August to the 1st day of July following, and a separate special tax stamp must be taken out accordingly for that State, and so on.

38. The “theatrical performances” contemplated by paragraph 7, section 2, of the Act of June 13, 1898, are only those which are given in connection with a circus. A theatrical company, therefore, merely playing dramas in towns of 25,000 inhabitants (as shown by the last census), or less, or in buildings whose proprietors do not hold the \$100 special tax stamp, is required to pay special tax under paragraph 8, viz., \$10 for each State for the special tax year, if the liability begins in the month of July, and at that rate when the liability begins in any other month than July.

39. Agricultural associations are required to pay a special tax at rate of \$10 for exhibitions, including horse racing.

Exhibitions of speed of horses on race track do not constitute circus.

40. Exhibitions and shows given on fair grounds, but not under

management and control of the fair association holding special tax stamp, are required to pay separate special tax.

41. *Public Exhibitions or Shows.*—A lecturer using a stereopticon to illustrate his lectures, and charging an admission fee, is liable to the special tax of \$10 on a public exhibition or show for money.

42. If an exhibition is given in more than one State, the law requires payment of special tax for every such State, and that a separate stamp shall be taken out for each State.

43. The ordinary church or Sunday school entertainment, without any hired performers, does not come under the head of public exhibitions or shows for money contemplated by the law.

44. Amateur theatrical exhibitions, either in private houses or licensed public halls, for church or charitable benefits, are not such performances as are subject to tax.

45. Concert gardens where no admission is charged, but where beer and other drinks are sold and concerts are given, are within the meaning of paragraph 8 of section 2 of the Act, and the special tax of \$10 must be paid therefor, unless the concert includes "feats of horsemanship or acrobatic sports or theatrical performances," in which case the special tax of \$100 must be paid.

46. Exhibitions of Edison's kinetoscopes require payment of a special tax of \$10 in each State where such exhibitions are had.

47. A special tax stamp cannot be transferred to a successor in business except that in case of death, the wife, child, executor, administrator, or legal representative may carry on the business until the year expires, in the same house and upon the same premises without payment of any additional tax. In cases where a firm composed of two or more members is dissolved, one or more members of the firm can carry on the business without procuring a new special tax stamp, but the change of the personnel of the firm should be registered with the collector. If a new member is admitted into the firm, a new special tax stamp is required. There is no provision of law under which any refund can be made on account of the discontinuing of business prior to the close of the special tax year.

48. Section 31 of the Act of June 13, 1898, provides that "all administrative, special or stamp provisions of law, including the laws in relation to the assessment of taxes, not heretofore specifically repealed, are hereby made applicable to this Act."

Collectors will proceed as provided in section 3176, Revised Statutes, as amended, in case of neglect or refusal to make return, or in case of false or fraudulent returns.

“Tobacco, Cigars, Cigarettes, and Snuff. — SECT. 3. That there shall, in lieu of the tax now imposed by law, be levied and collected a tax of twelve cents per pound upon all tobacco and snuff, however prepared, manufactured, and sold, or removed for consumption or sale; and upon cigars and cigarettes which shall be manufactured and sold, or removed for consumption or sale, there shall be levied and collected the following taxes, to be paid by the manufacturer thereof, namely, a tax of three dollars and sixty cents per thousand on cigars of all descriptions made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, and of one dollar per thousand on cigars made of tobacco or any substitute therefor, and weighing not more than three pounds per thousand; and a tax of three dollars and sixty cents per thousand on cigarettes made of tobacco or any substitute therefor, and weighing more than three pounds per thousand; and one dollar and fifty cents per thousand on cigarettes made of tobacco or any substitute therefor, and weighing not more than three pounds per thousand: *Provided*, That in lieu of the two, three, and four ounce packages of tobacco and snuff now authorized by law, there may be packages thereof containing one and two-thirds ounces, two and one-half ounces, and three and one-third ounces, respectively, and in addition to packages now authorized by law, there may be packages containing one ounce of smoking tobacco.

“And there shall also be assessed and collected with the exceptions hereinafter in this section provided for, upon all the articles enumerated in this section which were manufactured, imported, and removed from factory or custom-house before the passage of this Act

bearing tax stamps affixed to such articles for the payment of the taxes thereon, and cancelled subsequent to April fourteenth, eighteen hundred and ninety-eight, and which articles were at the time of the passage of this Act held and intended for sale by any person, a tax equal to one-half the difference between the tax already paid on such articles at the time of removal from the factory or custom-house and the tax levied in this Act upon such articles.

“Every person having on the day succeeding the date of the passage of this Act any of the above-described articles on hand for sale in excess of one thousand pounds of manufactured tobacco and twenty thousand cigars or cigarettes, and which have been removed from the factory where produced or the custom-house through which imported, bearing the rate of tax payable thereon at the time of such removal, shall make a full and true return under oath in duplicate of the quantity thereof, in pounds as to the tobacco and snuff and in thousands as to the cigars and cigarettes so held on that day, in such form and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Such returns shall be made and delivered to the collector or deputy collector for the proper internal-revenue district within thirty days after the passage of this Act. One of said returns shall be retained by the collector and the other forwarded to the Commissioner of Internal Revenue, together with the assessment list for the month in which the return is received, and the Commissioner of Internal Revenue shall assess and collect the taxes found to be due, as other taxes not paid by stamps are assessed and collected.

“And for the expense connected with the assessment and collection of the taxes provided by this Act there is hereby appropriated the sum of one hundred thousand dollars, or so much thereof as may be required, out of any moneys in the Treasury not otherwise appropriated, for the employment of such deputy collectors and other employees in the several collection districts in the United States, and such clerks and employees in the Bureau of Internal Revenue as may, in the discretion of the Commissioner of Internal Revenue, be necessary for a period not exceeding one year, to be compensated for their services by such allowances as shall be made by the Secretary of the Treasury, upon the recommendation of the Commissioner of Internal Revenue. And the Commissioner of Internal Revenue is authorized to employ ten agents, to be known and designated as internal-revenue agents, in addition to the number now authorized in section thirty-one hundred and fifty-two of the Revised Statutes as amended, and the existing provisions of law in all other respects shall apply to the duties, compensation, and expenses of such agents.”

This section is derived from the Acts of July 20, 1868; of June 6, 1872; of March 3, 1883, ch. 121; and is in addition to chapter 7, Title 35, of the Revised Statutes.

The term “cigar” includes cigarettes and cheroots. (a) The interpretation by the Commissioner of the first proviso of section three is that the two, three, and four ounce packages of tobacco or snuff are no longer authorized. (b) By the Rev. Stats. § 3387, as amended, every person who wishes to pursue the occupation of a cigar manufacturer must file in duplicate with the collector a statement showing the place of manufacture, and if the goods are to be manufactured for another, the latter’s name, residence, and occu-

(a) Rev. Stats. § 3387; *United States v. Mena*, 29 Int. Rev. Rec. 190.

(b) Circular No. 495 of June 14, 1898. See Appendix.

pation. He must give a bond conditioned that he will not defraud the government of any tax; that he will render correctly all returns, statements, and prescribed inventories; that he will stamp the cigars he manufactures, and that he will not knowingly sell or purchase any cigars not stamped as required by law; and will in all respects comply with the law. By §§ 3238, 3239 he must pay the special tax by means of stamps, and the evidence of the payment must be posted conspicuously in his place of manufacture. All this must be done before he can begin business.

By § 3388 he must display an outside sign giving his name and business. By § 3390 he must annually deliver to the collector a true inventory verified by oath of his stock, showing what portion of the goods were manufactured and what portion purchased from others; and he is to make daily entries in a book, stating all articles so purchased by him, and the quantity manufactured, sold, consumed, or removed; and before the tenth of each month he must furnish to the collector a true and accurate abstract of his purchases, sales, and removals. By § 3392, as amended, cigars are to be packed in specified quantities in boxes not before used for that purpose. On every box there must, by § 3393, as amended, be a label stating the number of the factory, and the district and State in which it is situated; also giving notice that he has complied with the law and cautioning every person not to use the box again for cigars, or the stamp thereon, nor to remove the contents of this box without destroying said stamp.

Imported cigars are to pay the same internal revenue tax as domestic, in addition to the customs. (a) When a box is emptied of cigars it is the duty of the person into whose hands the box is to utterly destroy the stamp thereon. (b) By § 3385, as amended, cigars may be exported abroad without payment of the tax under certain conditions. Cigarettes must be put up in packages containing ten, twenty, fifty, or one hundred cigarettes each. (c) By § 3371, as amended, if the tax or any part of it is not paid by means of stamps, the Commissioner may assess the deficiency, and this is put into the hands of the collector to collect, and is in addition to the penalties incurred. The absence of a stamp is *prima facie* evidence that the tax has not been paid. (d)

A sale of unstamped cigars will not be invalid if as a part of the

(a) Rev. Stats. § 3402; S. T. D. (1891), p. 908; 17 Int. Rev. Rec. 126.

(b) Rev. Stats. § 3406. See *Combs v. Tuchelt*, 24 Minn. 423; S. T. D. (1897), p. 617; 16 A. G. Op. 443.

(c) Rev. Stats. § 3392, as amended by § 32, Act of Oct. 1, 1890.

(d) Rev. Stats. § 3398.

transaction it was contemplated that they should be stamped before removal. (*a*) Tobacco which was shipped from a factory to an export bonded warehouse on the 14th of June, 1872, was subject to a tax of 32 cents per pound, as prescribed by the Statute of July 20, 1868, although such tobacco was not shipped from said warehouse until after July 1, 1872, and the Act of June 6, 1872, provided that on and after July 1, 1872, there shall be a tax on manufactured tobacco of 20 cents per pound. (*b*) Manufacture of cigars and tobacco, and sale of cigars and manufactured tobacco at retail, cannot be lawfully carried on at the same time in the same place. (*c*) If a retail dealer sells cigars not properly boxed and stamped, he is liable to the penalty. (*d*)

The removal of cigars from the back part of a room, where they are manufactured, to the front part where they are sold, without first branding and stamping them, is an infringement (*e*) of the law. (*f*) A cigar manufacturer cannot retail cigars from his factory. (*g*) It will be presumed that cigars were removed in the condition in which they were found. (*h*) Cigars cannot be taken out of boxes and put back again, even if the Commissioner authorizes it, unless new stamps are added. (*i*)

"Tobacco Dealers and Manufacturers. — SECT. 4. That from and after July first, eighteen hundred and ninety-eight, special taxes on tobacco dealers and man-

(*a*) *Combs v. Tinchelt*, 24 Minn. 423; *Crisp v. Proud*, 4 Hughes, 57; *United States v. Mena*, 29 Int. Rev. Rec. 190; *Straus v. Minzesheimer*, 78 Ill. 493. See *Ludloff v. United States*, 108 U. S. 176.

(*b*) *Jones v. Blackwell*, 100 U. S. 599; 14 A. G. Op. 110.

(*c*) 16 A. G. Op. 89.

(*d*) Rev. Stats. § 3392; *United States v. Edwards*, 17 Int. Rev. Rec. 126; *Ludloff v. United States*, 108 U. S. 176, 183; *United States v. Mena*, 29 Int. Rev. Rec. 190.

(*e*) On other infringements see *Jackson v. United States*, 22 Blatch. 353; *United States v. Jacoby*, 12 Blatch. 491. Concerning sales of goods not stamped, see *Wessels v. Beeman*, 66 Mich. 343; 87 Id. 481.

(*f*) *United States v. Neid*, 8 Phila. 169; 13 Int. Rev. Rec. 28; *United States v. Edwards*, 17 Id. 126; *Ludloff v. United States*, 108 U. S. 176. See *United States v. Millard*, 13 Blatch. 534.

(*g*) *Crisp v. Proud*, 4 Hughes, 57.

(*h*) *Jackson v. United States*, 22 Blatch. 353.

(*i*) 25 Int. Rev. Rec. 132; 15 A. G. Op. 516; *Crisp v. Proud*, 4 Hughes, 57; 16 A. G. Op. 443.

ufacturers shall be and hereby are imposed annually as follows, the amount of such annual taxes to be computed in all cases on the basis of the annual sales for the preceding fiscal year :

“Dealers in leaf tobacco whose annual sales do not exceed fifty thousand pounds shall each pay six dollars. Dealers in leaf tobacco whose annual sales exceed fifty thousand and do not exceed one hundred thousand pounds shall pay twelve dollars, and if their annual sales exceed one hundred thousand pounds shall pay twenty-four dollars.

“Dealers in tobacco whose annual sales exceed fifty thousand pounds shall each pay twelve dollars.

“Every person whose business it is to sell, or offer for sale, manufactured tobacco, snuff, or cigars shall be regarded as a dealer in tobacco : *Provided*, That no manufacturer of tobacco, snuff, or cigars shall be required to pay a special tax as dealer in manufactured tobacco and cigars for selling his own products at the place of manufacture.

“Manufacturers of tobacco whose annual sales do not exceed fifty thousand pounds shall each pay six dollars.

“Manufacturers of tobacco whose annual sales exceed fifty thousand and do not exceed one hundred thousand pounds shall each pay twelve dollars.

“Manufacturers of tobacco whose annual sales exceed one hundred thousand pounds shall each pay twenty-four dollars.

“Manufacturers of cigars whose annual sales do not exceed one hundred thousand cigars shall each pay six dollars.

“Manufacturers of cigars whose annual sales exceed

one hundred thousand and do not exceed two hundred thousand cigars shall each pay twelve dollars.

“Manufacturers of cigars whose annual sales exceed two hundred thousand cigars shall each pay twenty-four dollars.

“And every person who carries on any business or occupation for which special taxes are imposed by this Act, without having paid the special tax herein provided, shall, besides being liable to the payment of such special tax, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court.”

Dealers in leaf tobacco shall pay \$6, \$12, and \$24, as follows : —

Annually selling not exceeding 50,000 pounds	\$6.00
Annually selling exceeding 50,000 pounds, but not 100,000	12.00
Annually selling exceeding 100,000 pounds	24.00

Dealers in tobacco whose annual sales exceed 50,000 pounds shall pay \$12.

Manufacturers of tobacco shall pay \$6, \$12, and \$24, as follows : —

Annually selling not exceeding 50,000 pounds	\$6.00
Annually selling exceeding 50,000 pounds, but not 100,000	12.00
Annually selling exceeding 100,000 pounds	24.00

Manufacturers of cigars shall pay \$6, \$12, and \$24, as follows : —

Annually selling not exceeding 100,000 cigars	\$6.00
Annually selling exceeding 100,000 cigars, but not 200,000	12.00
Annually selling exceeding 200,000 cigars	24.00

The above named special tax payers are liable to the tax on and after July 1, 1898. (a)

This section adds to and amends Rev. Stats. § 3244, clauses 6-10, as amended. It is chiefly taken from the Acts of July 20, 1868, ch. 186 (15 Stats. 125), and of June 6, 1872, ch. 315 (17 Stats. 231).

Persons who engage in the manufacture of tobacco or snuff must furnish the collector a statement in duplicate (*a*) showing the place of manufacture; the number of cutting machines, presses, snuff-mills, hand-mills, or other machines; the name, kind, and quality of the article manufactured or proposed to be manufactured; and if an agent or under contract, the name, residence, and occupation of the principal or person contracted with. He must give bond (*b*) in amount determined by the collector of the district, that he will not defraud the government of any tax; that he will render truly and completely all returns, statements, and inventories; that when he adds to his machines, he will notify the collector; that he will stamp in accordance with law all his tobacco and snuff before removal; that all manufactured tobacco or snuff that he sells or buys shall be duly stamped, and that he will comply with the law.

The special tax must be paid by means of stamps, and evidence of it posted in a conspicuous place in the factory. (*c*) A certificate of the kind and number of cutting machines, etc., from the collector is to be posted in a conspicuous place in the manufactory. (*d*) The manufacturer must display an outside sign giving his full name and business, (*e*) and each year he must give the collector on oath a true inventory of his stock, what is manufactured and what is purchased; this must be certified to by the collector, who makes an examination thereof, and the manufacturer must make from day to day entries of articles purchased, the quantity put forth, and the number of net pounds of lumps of plug tobacco made in the lump room and of packages and pounds thereof produced in the press room each day. (*f*) This enables the revenue officers to determine whether materials purchased are accounted for, and furnishes information for making deficiency assessments.

All snuff was required by the Rev. Stats. § 3362, as amended, to be put up in packages containing one-half, one, two, three, four,

(*a*) Rev. Stats. § 3355, as amended by the Act of March 1, 1879 (20 Stats. 327).

(*b*) Ibid.

(*c*) Ibid. §§ 3238, 3239. As to the definition of "manufacturers of tobacco," see 40 Int. Rev. Rec. 277, 405; *D'Estrinoz v. Gerker*, 43 F. R. 285. As to dealers in tobacco, see Rev. Stats. § 3360, as amended by the Act of March 1, 1879, and §§ 26, 27 of the Act of Oct. 1, 1890 (26 Stats. 567).

(*d*) Rev. Stats. § 3355.

(*e*) Ibid. § 3356.

(*f*) Ibid. § 3358.

six, eight ounces each, or in bladders and in jars containing not exceeding twenty pounds. (a) All fine cut chewing-tobacco, and all other kinds of tobacco not otherwise provided for, are to be put up in packages containing one, two, three, four, eight, and sixteen ounces each, except that fine cut chewing-tobacco may, at the option of the manufacturer, be put up in wooden packages containing ten, twenty, forty, and sixty pounds each. (b) All smoking-tobacco, and all cut and granulated tobacco other than fine cut chewing, all shorts, the refuse of fine cut chewing, which has passed through a riddle of thirty-six meshes to the square inch, and all refuse, scraps, clippings, cuttings, and sweepings of tobacco, must be put up in packages containing two, three, four, eight, and sixteen ounces each, and of smoking tobacco there can be one ounce packages as well as the foregoing. (c) All cavendish, plug, and twist tobaccos are to be put up in wooden packages not exceeding two hundred pounds net weight. There are certain exceptions to this mode of packing where export abroad is intended. (d)

The factories in the district are numbered, and the name, residence, the place of manufacture, and number of the manufactory, are kept on record by the collector. (e) Packages cannot be used a second time, (f) and must have on them a label with the number of the factory, the district and State where located, and a notice that the manufacturer of this tobacco has complied with the law, and every person is cautioned not to use this package for tobacco again; (g) and if a wooden package, the manufacturer's name and place of manufacture, registered number of the factory, and the gross weight, the tare and the net weight of the tobacco in each package. (h)

Stamps must be affixed and cancelled in certain definite ways. (i)

Should any tobacco or snuff be removed without payment of the tax in whole or part, the Commissioner can make an assessment therefor, which is put into the hands of the collector to collect, and is in addition to the penalties incurred. (j)

Tobacco not stamped or unlawfully stamped is forfeited. (k)

(a) Rev. Stats. § 3262; 20 Stats. 327; 22 Stats. 401. See first proviso of § 3 of the present Act and its interpretation by the Commissioner, *supra*.

(b) *Ibid*.

(c) *Ibid*.

(d) *Ibid*.

(e) Rev. Stats. § 3357, as amended by § 33, Act of Oct. 1, 1890.

(f) *Ibid*. § 3376.

(g) Rev. Stats. § 3364, as amended by Act of March 3, 1883.

(h) Rev. Stats. § 3362; 20 Stats. 327; 22 Stats. 401.

(i) Rev. Stats. §§ 3369, 3370.

(j) *Ibid*. § 3182.

(k) *United States v. 117 Packages of Tobacco*, 10 Ben. 343.

The absence of the proper stamp on any package of manufactured tobacco or snuff shall be notice to all persons that the tax has not been paid thereon, and shall be *prima facie* evidence of the non-payment thereof. And such tobacco or snuff shall be forfeited to the United States. (a)

One is liable for having manufactured tobacco in his possession without being stamped. (b)

Congress has power to prescribe the punishment by the penalty and the fine and the imprisonment as a punishment, the whole of which may be imposed, and a delinquent may be proceeded against civilly and criminally. (c)

A sale completed, or a completed removal of manufactured tobacco, is necessary to the accruing assessment and payment of the tax upon it. (d)

The possession of parts of internal revenue stamps which have previously been used upon snuff jars does not constitute an offence within the Rev. Stats. § 3376. (e)

A merchant cannot retail leaf tobacco of his own growing by establishing stores at various places to sell this tobacco in connection with other goods, without involving himself in liability as a manufacturer of tobacco. (f)

“SECT. 5. Until appropriate stamps are prepared and furnished, the stamps heretofore used to denote the payment of the internal-revenue tax on fermented liquors, tobacco, snuff, cigars, and cigarettes may be stamped or imprinted with a suitable device to denote the new rate of tax, and shall be affixed to all packages containing such articles on which the tax imposed by this Act is paid. And any person having possession of unaffixed stamps heretofore issued for the payment of the tax upon fermented liquors, tobacco,

(a) Rev. Stats. § 3373.

(b) *United States v. Keyes*, 10 F. R. 876; see *Henderson's Tobacco*, 11 Wall. 652; 14 Int. Rev. Rec. 6.

(c) *In re Leszynsky*, 16 Blatch. 9.

(d) *United States v. A Quantity of Tobacco*, 6 Ben. 68.

(e) *United States v. Loup*, 1 F. R. 696; see *A Quantity of Tobacco and Cigars*, 5 Ben. 407.

(f) 40 Int. Rev. Rec. 405.

snuff, cigars, or cigarettes shall present the same to the collector of the district, who shall receive them at the price paid for such stamps by the purchasers and issue in lieu thereof new or imprinted stamps at the rate provided by this Act." (a)

"Adhesive Stamps. — SECT. 6. That on and after the first day of July, eighteen hundred and ninety-eight, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this Act, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, shall be written or printed by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several taxes or sums of money set down in figures against the same, respectively or otherwise specified or set forth in the said schedule.

"And there shall also be levied, collected, and paid, for and in respect to the medicines, preparations, matters, and things mentioned and described in Schedule B of this Act, manufactured, sold, or removed for sale, the several taxes or sums of money set down in words or figures against the same, respectively, or otherwise specified or set forth in schedule B of this Act."

This is derived chiefly from the Act of June 30, 1864, ch. 173, § 151 (13 Stats. 291).

"Whatever upon its face it purports to be, it is for the purpose of ascertaining the stamp duty. The paper here, as we have said, has the distinctive form of a draft or check upon an individual.

(a) On the payment by stamps between July 20, 1868, and Nov. 23, 1868, see Rev. Stats. § 3379.

It falls under that specific description, and is to be taxed according to that description, not varied by proof, and not ranked under any general terms contained in the statute." (a)

Documentary stamps of the denomination of two cents, when spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or when they may have been paid in error, or wrongfully collected, may, when the stamps have been returned to the Commissioner, or a satisfactory reason given why they cannot be returned, be allowed for or redeemed. (b)

It has just been decided by the Commissioner that, under the present Act, old stamps issued under repealed acts cannot be used in lieu of stamps required by the present law. (c)

"Issue." An agent authorized to enter into a contract is empowered to affix the proper stamps. (d)

Instruments executed before the Act went into effect do not require a stamp. (e)

"SECT. 7. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, without the same being duly stamped for denoting the tax hereby imposed thereon, or without having thereupon an adhesive stamp to denote said tax, such person or persons shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than one hundred dollars, at the discretion of the court, and such instrument, document, or paper, as aforesaid, shall not be competent evidence in any court."

This section has been chiefly derived from Rev. Stats. § 3422; and Acts of June 30, 1864, ch. 173; of July 13, 1866, ch. 184; of

(a) Mr. Justice Hunt in *United States v. Isham*, 17 Wall. 496, 505, 506.

(b) Rev. Stats. § 3426, as amended by the Acts of July 12, 1876 (19 Stats. 88), and March 1, 1879, § 17 (20 Stats. 329); *Eldridge*, 432-434.

(c) Commissioner's Ruling of July 13, 1898, No. 62.

(d) *Cedar Rapids & St. Paul R. R. Co. v. Stewart*, 25 Iowa, 115.

(e) *Rheinstrom v. Cone*, 26 Wis. 163.

July 14, 1870, ch. 255; of June 23, 1874, ch. 462; of Feb. 18, 1875, ch. 80; and of Feb. 27, 1877, ch. 69.

This section does not contain the words "with intent to evade the provisions of the law," or words of similar import. In cases brought under similar sections where such words did occur, the courts have held that the intent is material and of the essence of the offence, and the penalty is not incurred unless that is shown. (a)

The omission of the words "with intent," etc., is probably intentional. Any person can easily see to it that his papers are stamped. Then, too, the fact that the fine is at the discretion of the court shows that it is the intention of Congress that the burden of proving by the government that the act was done with intent to evade the law is dispensed with, if that is possible; and if a special case involves hardship, it lies in the power of the trial judge to relieve it by not imposing the fine.

"The early stamp acts of the United States went no further than to declare that certain instruments and writings not stamped as required by law should not 'be pleaded or given in evidence in any court to be available in law or equity,' unless or until stamped. U. S. Stats. 1797, ch. 11, § 13; 1813, ch. 53, § 7; 1 U. S. Stats. at Large, 531; 3 Id. 79." (b)

It has been held, under similar sections, that making an instrument which is unstamped not competent evidence in any court, is only applicable to the Federal courts, Congress having no authority to declare that a written instrument, unless stamped, shall not be received as evidence in the State courts. (c)

(a) *Campbell v. Wilcox*, 10 Wall. 421; *United States v. Buzzo*, 18 Wall. 125. *Green v. Holway*, 101 Mass. 243; *Brown v. Thompson*, 59 Maine, 372; *Morris v. McMorris*, 44 Miss. 441.

(b) Mr. Justice Gray in *Green v. Holway*, 101 Mass. 243, 244.

(c) *Carpenter v. Snelling*, 97 Mass. 452; *Green v. Holway*, 101 Mass. 243; *Burson v. Huntington*, 21 Mich. 415; *Sammons v. Halloway*, 21 Mich. 162; *Davis v. Richardson*, 45 Miss. 499; *Haight v. Grist*, 64 N. Car. 739; *Moore v. Moore*, 47 N. Y. 467; *Duffy v. Hobson*, 40 Cal. 240; *Griffin v. Ranney*, 35 Conn. 239; *Patterson v. Gile*, 1 Col. 200; *Forcheimer v. Holly*, 14 Fla. 239; *Latham v. Smith*, 45 Ill. 29; *Craig v. Dimock*, 47 Ill. 308; *Bunker v. Green*, 48 Ill. 243; *United States Express Co. v. Haines*, 48 Ill. 248; *Bowen v. Byrne*, 55 Ill. 467; *Wallace v. Cravens*, 34 Ind. 534; *Hunter v. Cobb*, 1 Bush (Ky.), 239; *Bumpass v. Taggart*, 26 Ark. 398; *Sporrer v. Eifler*, 1 Heisk. (Tenn.), 633; *Crews v. Farmers' Bank*, 31 Gratt. (Va.) 438; *Weltner v. Riggs*, 3 W. Va. 445; *Pargoud v. Richardson*, 30 La. Ann. 1286; *Holt v. Board of Liquidators*, 33 Id. 673. See *contra*, *Bernard's Succession*, 24 Id. 402; *Chartiers and Robinson Turnpike Co. v. McNamara*, 72 Penn. St. 278. See *Wayman v. Torreyson*, 4 Nev. 124; *Hugus v. Strickler*, 19 Iowa, 413.

In the State courts instruments without the stamp may be read in evidence. (a) When a lost instrument is established by secondary evidence it is not necessary to prove that the original was stamped, although such an instrument as requires a stamp. (b) If an instrument is not stamped when made, it may be stamped before it is offered in evidence, and the presumption will be that it was stamped at the proper time. (c) Or it may be stamped in open court, so as to be used in evidence. (d) Where a mortgage was used as evidence without a stamp, the objection was removed by stamping it after verdict in court. (e)

“SECT. 8. That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument which shall have been provided, or may hereafter be provided, made, or used in pursuance of this Act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp, die, plate, or other instrument as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper with any such forged or counterfeited stamp, die, plate, or other instrument, or part of any stamp, die, plate, or other instrument, as aforesaid, with intent to defraud the United States of any of the taxes hereby imposed, or any part thereof; or if any person shall utter, or sell, or expose for sale, any vellum, parchment, paper, article, or thing having thereupon the impression of any such counterfeited

(a) *Perryman v. City of Greenville*, 51 Ala. 507; *Bowen v. Byrne*, 55 Ill. 467; *Emery v. Hobson*, 63 Me. 33; *Black v. Woodrow*, 39 Md. 194.

(b) *Van Wickles v. Poydras*, 22 La. Ann. 70.

(c) *Union Agricultural and Stock Ass. v. Neill*, 31 Iowa, 95.

(d) *Waterbury v. McMillan*, 46 Miss. 635.

(e) *Plessinger v. Depuy*, 25 Ind. 419; *Janvrin v. Fogg*, 49 N. H. 340.

stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same to be forged, counterfeited, or resembled; or if any person shall knowingly use or permit the use of any stamp, die, plate, or other instrument which shall have been so provided, made, or used as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or remove, or cause or procure to be cut, torn, or removed, the impression of any stamp, die, plate, or other instrument which shall have been provided, made, or used in pursuance of this Act from any vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall fraudulently use, join, fix, or place, or cause to be used, joined, fixed, or placed, to, with, or upon any vellum, parchment, paper, or any instrument or writing charged or chargeable with any of the taxes hereby imposed, any adhesive stamp, or the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of law, and which shall have been cut, torn, or removed from any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall wilfully remove or cause to be removed, alter or cause to be altered, the canceling or defacing marks of any adhesive stamp with intent to use the same, or to cause the use of the same, after it shall have been once used, or shall knowingly or wilfully sell or buy such washed or restored stamp, or offer the same for sale, or give or expose the same

to any person for use, or knowingly use the same, or prepare the same with intent for the further use thereof; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamp which has been removed from any vellum, parchment, paper, instrument, or writing, then, and in every such case, every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting in committing any such offences as afore-said shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall forfeit the said counterfeit stamps and the articles upon which they are placed, and shall be punished by fine not exceeding one thousand dollars, or by imprisonment and confinement at hard labor not exceeding five years, or both, at the discretion of the court."

This section has been derived from Rev. Stats. § 3429; Acts of June 30, 1864, ch. 173, § 155 (13 Stats. 292); of July 13, 1866, ch. 184, § 9 (14 Stats. 141); of April 10, 1869, ch. 18, § 2 (16 Stats. 43); and of Feb. 27, 1877, ch. 69 (19 Stats. 248).

In this section the words "with intent to defraud" appear in the sixteenth line and in the twenty-eighth line (as here printed). Under the authorities already cited, this would appear to make the intent of the essence of the offence, and if that is not proved there can be no conviction. (a) In the other offences set forth in the section, where these words do not occur, is the intent of the essence? In answering this question it should be noticed that the word "wilfully" appears in the forty-seventh line and in the fifty-second line, and "knowingly and without lawful excuse" (the proof whereof shall lie on the person accused) in the fifty-sixth and fifty-seventh lines, and "knowingly and wilfully" in the sixty-second line. "Wilfully" and "knowingly" are probably tantamount to "with intent to defraud," and Congress by putting in parenthesis the words "the proof whereof shall lie on the person accused," recog-

(a) *Supra*, p. 31.

nized that the burden was on the government to prove fraudulent intent, except in the offence set forth connected with the parenthesis.

“SECT. 9. That in any and all cases where an adhesive stamp shall be used for denoting any tax imposed by this Act, except as hereinafter provided, the person using or affixing the same shall write or stamp thereupon the initials of his name and the date upon which the same shall be attached or used, so that the same may not again be used. And if any person shall fraudulently make use of an adhesive stamp to denote any tax imposed by this Act without so effectually cancelling and obliterating such stamp, except as before mentioned, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than fifty nor more than five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court: *Provided*, That any proprietor or proprietors of proprietary articles, or articles subject to stamp duty under Schedule B of this Act, shall have the privilege of furnishing, without expense to the United States, in suitable form, to be approved by the Commissioner of Internal Revenue, his or their own dies or designs for stamps to be used thereon, to be retained in the possession of the Commissioner of Internal Revenue, for his or their separate use, which shall not be duplicated to any other person. And the proprietor furnishing such dies or designs shall be required to purchase stamps printed therefrom in quantities of not less than two thousand dollars face value at any one time. That in all cases where such stamp is used, instead of cancellation by initials and date, the said stamp shall be so affixed on

the box, bottle, or package that in opening the same, or using the contents thereof, the said stamp shall be effectually destroyed; and in default thereof the party making default shall be liable to the same penalty imposed for the neglect to affix said stamp as hereinbefore prescribed in this Act. Any person who shall fraudulently obtain or use any of the aforesaid stamps or designs therefor, and any person forging or counterfeiting, or causing or procuring the forging or counterfeiting, any representation, likeness, similitude, or colorable imitation of the said last-mentioned stamp, or any engraver or printer who shall sell or give away said stamps, or selling the same, or, being a merchant, broker, peddler, or person dealing, in whole or in part, in similar goods, wares, merchandise, manufactures, preparations, or articles, or those designed for similar objects or purposes, shall have knowingly or fraudulently in his, her, or their possession any such forged, counterfeited likeness, similitude, or colorable imitation of the said last-mentioned stamp, shall be deemed guilty of a crime, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding one year, or both."

This section has been derived from Rev. Stats. § 3423; Acts of June 30, 1864, ch. 173, §§ 155, 156, 165 (13 Stats. 292, 293, 296); of July 13, 1866, ch. 184, § 9 (14 Stats. 141-144); and of July 14, 1870, ch. 255, § 4 (16 Stats. 257).

The provision as to writing initials and date on the stamp, in order to cancel it, also appears in the English Stamp Act of 1870 (*a*).

Any cancellation is enough which defaces the stamp. (*b*) Instru-

(*a*) 33 & 34 Vict. c. 97, s. 24.

(*b*) *Foster v. Holley*, 49 Ala. 593; *Robinson v. Lair*, 31 Iowa, 9; *Taylor v. Duncan*, 33 Tex. 440. The Commissioner in Circular No. 507, of July 29, 1898, suggests certain ways of cancelling stamps. See Appendix.

ments with uncanceled stamps are admitted in evidence in the State courts. (a)

The words "fraudulently," etc., are used in this section, and to secure a conviction of any of the offences set forth, the government must show that the act complained of was fraudulently done. (b)

A person to whom proprietary stamps are sold on credit is not, in default of payment therefor, accountable for public money. (c)

Stamps sold to one person need not be used by him individually, but may be used by a firm of which he is a member. (d)

"SECT. 10. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp tax, any bill of exchange, draft, or order, or promissory note for the payment of money, liable to any of the taxes imposed by this Act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax hereby charged thereon, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding two hundred dollars, at the discretion of the court."

This section has been derived chiefly from the Acts of June 30, 1864, ch. 173, § 158 (13 Stats. 293); of March 3, 1865, ch. 78, § 1 (13 Stats. 481); and of July 13, 1866, ch. 184, § 8 (14 Stats. 142).

In this section the words "with design to evade" appear, and, therefore, on the authorities already cited, *design to evade* must be proved by the government in order to convict a person of any of the offences herein set forth. (e) Great hardship and injustice might result if, for the offences set forth in this section, the ordinary rule of criminal procedure were dispensed with, requiring the gov-

(a) *Union Agricultural Ass'n v. Neill*, 31 Iowa, 95; *Schultz v. Herndon*, 32 Tex. 390.

(b) *Supra*, p. 31.

(c) *Jessup v. United States*, 106 U. S. 147.

(d) *United States v. Weedon*, 4 Hughes, 450; 3 F. R. 623.

(e) *Supra*, p. 31.

erument to prove a criminal intent in order to convict. Compare this section with §§ 7, 11 of the present Act, in which it seems to have been the intent of Congress to dispense with the proof of design to evade the law. The offences set forth in § 10 seem broad enough to cover those contained in §§ 7, 11. (a)

Any words in writing importing a promise to pay a sum certain makes a promissory note within the meaning of the Stamp Acts; it must be stamped accordingly, unless the promise is to pay a sum already secured by a duly stamped promissory note. (b)

An indorsement does not require an additional stamp, nor does a waiver of demand and notice. (c)

“SECT. 11. That the acceptor or acceptors of any bill of exchange or order for the payment of any sum of money drawn, or purporting to be drawn, in any foreign country, but payable in the United States, shall, before paying or accepting the same, place thereupon a stamp, indicating the tax upon the same, as the law requires for inland bills of exchange or promissory notes; and no bill of exchange shall be paid or negotiated without such stamp; and if any person shall pay, or negotiate, or offer in payment, or receive or take in payment, any such draft or order, the person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, in the discretion of the court.”

This section has been derived chiefly from the Act of June 30, 1864, ch. 173, § 159 (13 Stats. 294).

In this section such words as “design to evade” do not appear, and from the nature of the offences herein set forth, it would seem that their omission was intentional. A person receiving a bill of

(a) See *supra*.

(b) *Drury v Macanlay*, 16 M. & W. 146; *Ellis v. Mason*, 7 Dowl. Pr. 598. *Wheatley v. Williams*, 1 M. & W. 533; *Shrivell v. Payne*, 8 Dowl. Pr. 441; *Walker v. Roberts*, Car. & Marsh. 590; *Shelton v. James*, 5 Q. B. 199.

(c) *Pugh v. McCormick*, 14 Wall. 361.

exchange can readily see whether there is a proper stamp thereon, and if there is not, he can affix it.

Bills of exchange cannot be reissued after they have been once paid without a fresh stamp; but a party paying an accommodation bill after maturity, on behalf of the acceptor, may bring an action against the drawer without having the bill restamped, for there is no reissue of the bill in such a case. To make a fresh stamp necessary, there must be a payment by the party ultimately liable. (*a*)

Probably bills of exchange payable on a contingency, or out of a particular fund, which are not strictly bills of exchange, will be so regarded as far as a stamp is required. They are so regarded under the English Stamp Act of 1870. (*b*)

“SECT. 12. That in any collection district where, in the judgment of the Commissioner of Internal Revenue, the facilities for the procurement and distribution of adhesive stamps are or shall be insufficient, the Commissioner, as aforesaid, is authorized to furnish, supply, and deliver to the collector of any district, and to any assistant treasurer of the United States or designated depositary thereof, or any postmaster, a suitable quantity of adhesive stamps, without prepayment therefor, and may in advance require of any collector, assistant treasurer of the United States, or postmaster a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps which may be placed in his hands and remain unaccounted for, conditioned for the faithful return, whenever so required, of all quantities

• • (a) *Thomas v. Fenton*, 6 L. J. Q. B. 362; *Lazarus v. Cowie*, 3 Q. B. 459; *Jewell v. Parr*, 13 C. B. 914.

(b) *Firbank v. Bell*, 1 B. & Ald. 36; *Butts v. Swan*, 4 Moore, 484. The English Stamp Act of 1870 provided, that every person into whose hands any such bill or note comes in the United Kingdom before it is stamped shall, before he presents for payment, or indorses, transfers, or in any manner negotiates or pays such bill or note, affix thereto a proper adhesive stamp, or proper adhesive stamps, of sufficient amount, and cancel every stamp so affixed thereto. In cases brought under that Act it was held that it is not necessary that the instrument should be stamped before it is presented for acceptance. *Sharples v. Rickard*, 2 H. & N. 57; *Griffin v. Weatherby*, L. R. 3 Q. B. 753.

or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand. And it shall be the duty of such collector to supply his deputies with, or sell to other parties within his district who may make application therefor, adhesive stamps, upon the same terms allowed by law or under the regulations of the Commissioner of Internal Revenue, who is hereby authorized to make such other regulations, not inconsistent herewith, for the security of the United States and the better accommodation of the public, in relation to the matters hereinbefore mentioned, as he may judge necessary and expedient. And the Secretary of the Treasury may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such adhesive stamps."

This section was taken principally from Rev. Stats. § 3427, and the Act of June 30, 1864, ch. 173, § 170 (13 Stats. 297).

"SECT. 13. That any person or persons who shall register, issue, sell, or transfer, or who shall cause to be issued, registered, sold, or transferred, any instrument, document, or paper of any kind or description whatsoever mentioned in Schedule A of this Act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax chargeable thereon, and cancelled in the manner required by law, with intent to evade the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding six months, or both, in the discretion of the court; and such instrument, document, or paper, not being stamped according to law, shall be

deemed invalid and of no effect: *Provided*, That hereafter, in all cases where the party has not affixed to any instrument the stamp required by law thereon at the time of issuing, selling, or transferring the said bonds, debentures, or certificates of stock or of indebtedness, and he or they, or any party having an interest therein, shall be subsequently desirous of affixing such stamp to said instrument, or, if said instrument be lost, to a copy thereof, he or they shall appear before the collector of internal revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law, and of a penalty of ten dollars, and, where the whole amount of the tax denoted by the stamp required shall exceed the sum of fifty dollars, on payment also of interest, at the rate of six per centum, on said tax from the day on which such stamp ought to have been affixed, affix the proper stamp to such bond, debenture, certificate of stock or of indebtedness or copy, and note upon the margin thereof the date of his so doing, and the fact that such penalty has been paid; and the same shall thereupon be deemed and held to be as valid, to all intents and purposes, as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise, to his satisfaction, that any such instrument has not been duly stamped, at the time of making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without any wilful design to defraud the United States of the stamp, or to evade or delay the payment thereof, then and in such case, if such instrument, or, if the original be lost, a copy thereof, duly certified by the officer having charge of any records in which such original is required to be

recorded, or otherwise duly proven to the satisfaction of the collector, shall, within twelve calendar months after the making or issuing thereof, be brought to the said collector of internal revenue to be stamped, and the stamp tax chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid and to cause such instrument to be duly stamped. And when the original instrument, or a certified or duly proven copy thereof, as aforesaid, duly stamped so as to entitle the same to be recorded, shall be presented to the clerk, register, recorder, or other officer having charge of the original record, it shall be lawful for such officer, upon the payment of the fee legally chargeable for the recording thereof, to make a new record thereof, or to note upon the original record the fact that the error or omission in the stamping of said original instrument has been corrected pursuant to law; and the original instrument or such certified copy, or the record thereof, may be used in all courts and places in the same manner and with like effect as if the instrument had been originally stamped: *And provided further*, That in all cases where the party has not affixed the stamp required by law upon any such instrument issued, registered, sold, or transferred at a time when and at a place where no collection district was established, it shall be lawful for him or them, or any party having an interest therein, to affix the proper stamp thereto, or, if the original be lost, to a copy thereof. But no right acquired in good faith before the stamping of such instrument, or copy thereof, as herein provided, if such record be required by law, shall in any manner be affected by such stamping as aforesaid."

This section was taken principally from Rev. Stats. § 3423; Acts of June 30, 1864, ch. 173, § 158 (13 Stats. 293); of July 13, 1866, ch. 184, § 9 (14 Stats. 142); and of July 14, 1870, ch. 255, § 5 (16 Stats. 257).

The words "with intent to evade" appear here; hence, in order to secure conviction under this section, the government must allege and prove that the act complained of was done with intent to evade the provisions of this Act. (a)

The express provision that unstamped instruments shall be invalid and of no effect, which has been taken from the old repealed Acts, has given rise to much litigation. In cases brought under similar provisions it has been decided that a conveyance made contrary thereto is void, but that the mere omission to stamp a conveyance or cancel the stamp does not constitute a violation of the law. It must be alleged and proved that the omission was with intent to evade the law and defraud the government of the stamp duty. (b)

"The Act of July 13, 1866 (14 Stats. 142, § 158), which requires promissory notes and other instruments to be stamped, only declares that they 'shall be deemed invalid and of no effect' when the stamp is omitted 'with intent to evade the provisions' of the Act, — that is, with intent to defraud the government of the stamp duty. It is a fraudulent and not an accidental omission at which the penalty of the statute is levied. Such fraudulent omission, if available at all to the maker of the note, can only be set up by special plea or urged on the trial. It cannot be taken advantage of on demurrer." (c)

"It allows a stamp to be subsequently affixed on application to the collector and payment of the stamp duty. While, if a stamp is so subsequently affixed after payment of the penalty (which is incurred only if the stamp has been originally omitted with intent to

(a) *Supra*, p. 31.

(b) *Dowell v. Applegate*, 7 F. R. 881; *United States v. Griswold*, 8 F. R. 556, 571; *Green v. Holway*, 101 Mass. 243; *Tobey v. Chipman*, 13 Allen, 123; *Govern v. Littlefield*, Id. 127, 128, note; *McGovern v. Hoesback*, 53 Penn. St. 176; *Dudley v. Wells*, 55 Maine, 145; *Whitehill v. Shickle*, 43 Mo. 537; *Hallock v. Jaudin*, 34 Cal. 167; *Harper v. Clark*, 17 Ohio St. 190; *Lynch v. Morse*, 97 Mass. 458, note; *Campbell v. Wilcox*, 10 Wall. 421; *Whigham v. Pickett*, 43 Ala. 140; *Waterbury v. McMillan*, 46 Miss. 635; *Baker v. Baker*, 6 Lans. (N. Y.) 509; *New Haven & Northampton Co. v. Quintard*, 6 Abb. Pr. n. s. (N. Y.) 128; *Grant v. Conn. Mut. L. Ins. Co.*, 29 Wis. 125.

(c) Per Mr. Justice Field, in *Campbell v. Wilcox*, 10 Wall. 421, 422. See *Dowell v. Applegate*, 7 F. R. 881.

defraud the provisions of the statute), it is expressly declared that the instrument shall thereupon be deemed as valid as if originally stamped; such a declaration is omitted, and assumed to be unnecessary, in the case of a stamp so affixed upon proof that it has been omitted without fraudulent intent. The only reasonable construction of all those provisions, taken together, is, that an instrument not duly stamped at first is not by reason thereof absolutely void, but only voidable by proof that the stamp was omitted with intent to defraud the revenue, made before it has been duly stamped on application to the collector, or, if the instrument is one which passes title, before that title has been conveyed away by the grantee by an instrument duly stamped." (a)

"It has been said in Illinois and Kentucky, that to declare contracts not stamped to be wholly void was beyond the constitutional power of Congress. *Latham v. Smith*, 45 Ill. 29; *Hunter v. Cobb*, 1 Bush, 239. We should not be prepared to adopt that view, without stronger reasons than are stated in those cases, especially since the judgments of the Supreme Court of the United States in *The License Tax Cases*, 5 Wall. 462, and *Pervear v. Commonwealth*, Id. 475. And a consideration of its soundness is not requisite or proper in this case, in which we are of the opinion, for the reasons already stated, that Congress has not undertaken to exercise such a power. If Congress has the power at its discretion of declaring that all unstamped instruments shall be absolutely void, it does not follow that the exercise of so extreme a power is to be easily inferred; or that Congress can, without so declaring, control the rules of evidence in the State courts, or the duties of recording officers under State laws; still less, that the assumption of such a control on the part of Congress is to be presumed without the clearest manifestation of intention in the words of the statute. The later decisions of the Supreme Court of Illinois, already cited, are put upon grounds more accordant with our judgment in this case. The result is, that, as no evidence was offered that the stamp upon the contract in suit had been omitted with fraudulent intent, the learned judge erred in sustaining the defendant's objection, and the plaintiff is entitled to a new trial." (b)

To make an instrument void for want of a stamp it must be shown that the omission of the stamp was done with intent to defraud. (c) The burden of establishing that the omission to stamp

(a) Mr. Justice Gray, *Green v. Holway*, 101 Mass. 243, 249.

(b) Mr. Justice Gray, in *Green v. Holway*, 101 Mass. 243, 250.

(c) *Green v. Holway*, 101 Mass. 243; *Campbell v. Wilcox*, 10 Wall. 421; *Desmond v. Norris*, 10 Allen, 250; *Atkins v. Plympton*, 44 Vt. 21.

the instrument was done with intent to defraud is upon the person impeaching the instrument. (a) One who objects to the validity of a deed because insufficiently stamped, must prove, in order to prevail, that the stamp was insufficient for the actual consideration, and that a fraud on the revenue was intended. (b)

If after suit is brought upon an unstamped contract, it is taken to the collector and stamped by him, and he certifies that the original omission to stamp the contract was through inadvertence, this is a sufficient answer to the objection that the instrument was unstamped. (c)

A statute which imposes a prohibition as well as a penalty, does not necessarily avoid an instrument bearing an uncanceled stamp. (d)

When there is no fraudulent intent, the absence of a stamp does not affect the validity of a mortgage. (e)

Omission to stamp a deed does not impair the title acquired by a purchaser from the grantee under such deed if the purchaser's deed is duly stamped. (f)

Under § 3422 of the Revised Statutes, which is similar to this section 13, where an unstamped instrument was lost, it was held that a copy might be stamped by the collector in place of the original. (g)

In certain cases unstamped instruments have been held void irrespective of the question of intent. (h)

(a) *Whigham v. Pickett*, 43 Ala. 140; *Dudley v. Wells*, 55 Me. 145; *Tobey v. Chipman*, 13 Allen, 123; *Waterbury v. McMillan*, 46 Miss. 635; *Baker v. Baker*, 6 Lans. (N. Y.) 509; *New Haven & Northampton Co. v. Quintard*, 6 Abb. Pr. n. s. (N. Y.) 128; *Grant v. Conn. Mut. L. Ins. Co.*, 29 Wis. 125. *Contra*, *United States v. Learned*, 1 Abb. (U. S.) 483.

(b) *United States v. Griswold*, 8 F. R. 556. See *First Nat. Bank v. Morsell*, 1 MacArthur, 155.

(c) *Logan v. Dils*, 4 W. Va. 397. See *Green v. Holway*, 101 Mass. 243.

(d) *Dowell v. Applegate*, 7 F. R. 881; *United States v. Mann*, 95 U. S. 580; *Latham v. Smith*, 45 Ill. 29; *Lambert v. Whitelock*, 29 Ind. 26; *Patterson v. Gile*, 1 Col. 200.

(e) *Moore v. Quirk*, 105 Mass. 49.

(f) *Kiuney v. Con. Virginia M. Co.*, 4 Sawyer, 382. See *Campbell v. Wilcox*, 10 Wall. 421; *Pugh v. McCormick*, 14 Wall. 361.

(g) 22 Int. Rev. Rec. 69.

(h) *Hugus v. Strickler*, 19 Iowa, 413; *Maynard v. Johnson*, 2 Nev. 16-25; *Wayman v. Toneyson*, 4 Nev. 124; *Miller v. Morrow*, 3 Coldw. (Tenn.) 587. See *Chartiers & Robinson Turnpike Co. v. McNamara*, 72 Penn. St. 278; *United States v. Learned*, 1 Abb. (U. S.) 483. As to the constitutionality of such provisions, see *Green v. Holway*, 101 Mass. 243, and cases cited therein.

“SECT. 14. That hereafter no instrument, paper, or document required by law to be stamped, which has been signed or issued without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded or admitted, or used as evidence in any court until a legal stamp or stamps, denoting the amount of tax, shall have been affixed thereto, as prescribed by law: *Provided*, That any bond, debenture, certificate of stock, or certificate of indebtedness issued in any foreign country shall pay the same tax as is required by law on similar instruments when issued, sold, or transferred in the United States; and the party to whom the same is issued, or by whom it is sold or transferred, shall, before selling or transferring the same, affix thereon the stamp or stamps indicating the tax required.”

This section is taken principally from Rev. Stats. § 3421, and Acts of June 30, 1864, ch. 173, § 163 (13 Stats. 295); of July 13, 1866, ch. 184, § 9 (14 Stats. 143); and of Feb. 18, 1876, ch. 13 (19 Stats. 5).

In a case brought under a similar provision it was said that an instrument duly stamped could be read in evidence although the stamp was not cancelled. (a) The authorities cited above under §§ 7, 11 should also be consulted, upon the question of intent.

“SECT. 15. That it shall not be lawful to record or register any instrument, paper, or document required by law to be stamped unless a stamp or stamps of the proper amount shall have been affixed and cancelled in the manner prescribed by law; and the record, registry, or transfer of any such instruments upon which the

(a) *Patterson v. Gile*, 1 Col. 200. See *Union Agricultural Assoc. v. Neill*, 31 Iowa, 95; *Schultz v. Herndon*, 32 Tex. 390. See *A Quantity of Distilled Spirits*, 3 Ben. 552.

proper stamp or stamps aforesaid shall not have been affixed and cancelled as aforesaid shall not be used in evidence."

This section is taken principally from Rev. Stats. § 3421; Acts of June 30, 1864, ch. 173, § 163 (13 Stats. 295); of July 13, 1866, ch. 184, § 9 (14 Stats. 143); and of Feb. 18, 1876, ch. 13 (19 Stats. 5).

"*Affixed.*" The appropriate stamp for any instrument must be ascertained by considering its leading character and legal operation; and if other matters are embraced, accessory or incidental, no additional stamp in respect to them will be required. (*a*)

"*Instruments.*" This section has no application to notes and bills. (*b*)

In a case brought under a clause similarly worded, it was held that such a provision cannot interfere with the recording under State laws of an unstamped instrument. (*c*) Congress has not the power to control State courts or officers in the performance of their duties. (*d*)

"SECT. 16. That no instrument, paper, or document required by law to be stamped shall be deemed or held invalid and of no effect for the want of a particular kind or description of stamp designated for and denoting the tax charged on any such instrument, paper, or document, provided a legal documentary stamp or stamps denoting a tax of equal amount shall have been duly affixed and used thereon."

This section was derived from the Act of June 30, 1864, ch. 173, § 153 (13 Stats. 292).

It is intended to avoid the immense amount of litigation which would surely arise if it was insisted that the only stamp valid for a given instrument was the one designated by law for such instru-

(*a*) *Corder v. Drakeford*, 3 Taunt. 382.

(*b*) *Corry Nat. Bank v. Rouse*, 13 Pitts. L. J. 280; 3 Int. Rev. Rec. 31.

(*c*) *Moore v. Quirk*, 105 Mass. 49. See *Green v. Holway*, 101 Mass. 243; *Carpenter v. Snelling*, 97 Mass. 458.

(*d*) *Collector v. Day*, 11 Wall. 113, 127. See *Dowell v. Applegate*, 7 F. R. 881, and authorities cited under sect. 7, *supra*.

ment. It would also work great hardship in remote places where the supply of stamps is limited, and particular kinds are often difficult to obtain.

“SECT. 17. That all bonds, debentures, or certificates of indebtedness issued by the officers of the United States Government, or by the officers of any State, county, town, municipal corporation, or other corporation exercising the taxing power, shall be, and hereby are, exempt from the stamp taxes required by this Act: *Provided*, That it is the intent hereby to exempt from the stamp taxes imposed by this Act such State, county, town, or other municipal corporations in the exercise only of functions strictly belonging to them in their ordinary governmental, taxing, or municipal capacity: *Provided further*, That stock and bonds issued by co-operative building and loan associations whose capital stock does not exceed ten thousand dollars, and building and loan associations or companies that make loans only to their shareholders, shall be exempt from the tax herein provided.”

This section was derived from Rev. Stats. § 3420; Acts of June 30, 1864, ch. 173, § 163 (13 Stats. 295); and of July 13, 1866, ch. 184, § 9 (14 Stats. 141).

It has just been decided by the Commissioner that all checks drawn by officers of States, counties, and municipalities, in discharge of the obligations of the States, counties, and municipalities, are exempt from stamp taxes, (a) and that the exemption granted to co-operative building and loan associations is confined to the stock and bonds issued by the associations, and does not relieve them from other stamp taxes; (b) also that certificates of deaths, marriages, and births, given in pursuance of State laws requiring the collection of vital statistics as a basis of the administration of the public health laws, come within the exemption of this section; (c)

(a) Commissioner's Rulings of July 13, 1898.

(b) *Ibid*.

(c) *Ibid*.

and that all certificates made in the exercise of State, municipal, or governmental functions are exempt, although a certificate given by an officer on his own private business is subject to the tax. (a) The Attorney-General of Massachusetts has recently ruled that convention certificates of nomination, but not nomination papers, are "certificates." The latter must, it is true, be accompanied by a certificate of registrars of voters, but they are exempt under the law. (b)

"SECT. 18. That on and after the first day of July, eighteen hundred and ninety-eight, no telegraph company or its agent or employee shall transmit to any person any despatch or message without an adhesive stamp, denoting the tax imposed by this Act, being affixed to a copy thereof, or having the same stamped thereupon, and in default thereof shall incur a penalty of ten dollars: *Provided*, That only one stamp shall be required on each despatch or message, whether sent through one or more companies: *Provided*, That the messages or despatches of the officers and employees of any telegraph or telephone company concerning the affairs and service of the company, and like messages or despatches of the officials and employees of railroad companies sent over the wires on their respective railroads, shall be exempt from this requirement: *Provided further*, That messages of officers and employees of the Government on official business shall be exempt from the taxes herein imposed upon telegraphic and telephonic messages."

This section is principally taken from the Acts of June 30, 1864, ch. 173, § 107 (13 Stats. 276); and of July 13, 1866, ch. 184 (14 Stats. 136).

(a) Commissioner's Rulings of July 13, 1898. See *United States v. Mann*, 95 U. S. 580.

(b) This opinion was given in July, 1898, but is not published.

“SECT. 19. That all the provisions of this Act relating to dies, stamps, adhesive stamps, and stamp taxes shall extend to and include (except where manifestly inapplicable) all the articles or objects enumerated in Schedule B, subject to stamp taxes, and apply to the provisions in relation thereto.” (a)

“SECT. 20. That on and after the first day of July, eighteen hundred and ninety-eight, any person, firm, company, or corporation that shall make, prepare, and sell, or remove for consumption or sale, drugs, medicines, preparations, compositions, articles, or things, including perfumery and cosmetics, upon which a tax is imposed by this Act, as provided for in Schedule B, without affixing thereto an adhesive stamp or label denoting the tax before mentioned shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court: *Provided*, That no stamp tax shall be imposed upon any uncompounded medicinal drug or chemical, or upon any medicine sold to or for the use of any person which may be mixed or compounded for said person according to the written recipe or prescription of any practising physician or surgeon, or which may be put up or compounded for said person by a druggist or pharmacist selling at retail only. The stamp taxes provided for in Schedule B of this Act shall apply to all medicinal articles compounded by any formula, published or unpublished, which are put up in style or manner similar to that of patent, trademark, or proprietary medicine in general, or which are advertised on the package or otherwise as remedies or

(a) See sect. 8 above.

specifics for any ailment, or as having any special claim to merit, or to any peculiar advantage in mode of preparation, quality, use, or effect."

This section is principally taken from the Rev. Stats. § 3430, and the Acts of June 30, 1864, ch. 173, § 165 (13 Stats. 296); of July 13, 1866, ch. 184, § 9 (14 Stats. 144); and of July 14, 1870, ch. 255, § 4 (16 Stats. 257).

The words "with intent to defraud," or their equivalent, do not appear in this section. Their omission is evidently intentional, as the manufacturer of the articles mentioned in Schedule B. can easily secure the proper stamping of what goes forth, and if the government were required to prove fraudulent intent, it would leave a great loophole for fraud, and make it very difficult to insure conviction for manifest defrauding of the revenue. In this connection, see § 23.

Sect. 3437 of the Revised Statutes provides that, whenever any article upon which a tax is required to be paid by means of a stamp, is sold or removed for sale by the manufacturer thereof without the use of the proper stamp, in addition to the penalties imposed by law for such sale or removal, it shall be the duty of the Commissioner, within a period of not more than two years after such removal or sale, upon such information as he can obtain, to estimate the amount of the tax which has been omitted to be paid, and to make an assessment therefor, which is put into the hands of the collector to collect. (a)

"SECT. 21. That any manufacturer or maker of any of the articles for sale mentioned in Schedule B, after the same shall have been so made, and the particulars hereinbefore required as to stamps have been complied with, or any other person who shall take off, remove, or detach, or cause, or permit, or suffer to be taken off, or removed or detached, any stamp, or who shall use any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrap-

(a) 14 A. G. Op. 459; *United States v. Goldback*, 1 Hughes, 529.

per or cover, with such stamp when first used, with the intent to evade the stamp duties, shall for every such article, respectively, in respect of which any such offence shall be committed, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court, and every such article or commodity as aforesaid shall also be forfeited."

This section was derived principally from Rev. Stats. § 3432; and the Acts of June 30, 1864, ch. 173, § 167 (13 Stats. 296), and of March 3, 1865, ch. 78, § 1 (13 Stats. 482).

In this section the words "with intent to evade" appear. The nature of the offences set forth make it only fair that the accused should be given the benefit of such a provision.

"SECT. 22. That any maker or manufacturer of any of the articles or commodities mentioned in Schedule B, as aforesaid, or any other person who shall sell, send out, remove, or deliver any article or commodity, manufactured as aforesaid, before the tax thereon shall have been fully paid by affixing thereon the proper stamp, as in this Act provided, or who shall hide or conceal, or cause to be hidden or concealed, or who shall remove or convey away, or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the tax chargeable thereon, or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court, together with the forfeiture of any such article or commodity: *Provided*, That articles upon which stamp taxes are required by

this Act may, when intended for exportation, be manufactured and sold or removed without having stamps affixed thereto, and without being charged with tax as aforesaid; and every manufacturer or maker of any article as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may be from time to time prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

This section was derived principally from Rev. Stats. § 3432; and the Acts of June 30, 1864, ch. 173, § 167 (13 Stats. 296), and of March 3, 1865, ch. 78, § 1 (13 Stats. 482).

The words "with intent," etc., or their equivalent, do not here appear. This omission seems to be intentional. The article can be easily stamped before it is put forth.

When it appears that an article required by law to be stamped was sold unstamped, the presumption is that it never was stamped; but this presumption may be overcome by showing that the stamps were lost, removed by accident, or the like. (a)

The mere act of taking the cover from a box containing bottles of perfumery to enable a person to ascertain the kind and quality of its contents, the cover being replaced before sale and delivery, does not render the box a "broken package" within the meaning of the internal revenue laws imposing stamp duties. (b)

Where cosmetics were seized by the government on the wharf whither they had been sent for export, and an information was filed to forfeit them on the ground of their not being stamped, it was held, as the goods were not manufactured in the warehouses prescribed by Rev. Stats. § 3433, that, under § 3432, they should have been stamped, although intended for exportation, and, not having been so stamped, were liable to forfeiture. (c) This decision shows that, if export is intended, one must comply *exactly* with what is laid down in the proviso of § 22.

In a pamphlet entitled Series 7, No. 24, issued June 23, 1898, the Commissioner has laid down very elaborate rules and regula-

(a) *United States v. Brown*, Deady, 566.

(b) *United States v. Fox*, Deady, 579; 11 Int. Rev. Rec. 36.

(c) *United States v. 236 Dozen Boxes containing Cosmetics*, 6 Ben. 543.

tions, with forms, etc., so that the provisions of the proviso of this section twenty-two can be carried out. (a)

“SECT. 23. That every manufacturer or maker of any of the articles or commodities provided for in Schedule B, or his foreman, agent, or superintendent, shall at the end of each and every month make, sign, and file with the Collector of Internal Revenue for the district in which he resides a declaration in writing that no such article or commodity has, during such preceding month or time when the last declaration was made, been removed, or carried, or sent, or caused or suffered or known to have been removed, carried, or sent from the premises of such manufacturer or maker other than such as have been duly taken account of and charged with the stamp tax, on pain of such manufacturer or maker forfeiting for every refusal or neglect to make such declaration one hundred dollars; and if any such manufacturer or maker, or his foreman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer or maker, or foreman, agent, or superintendent making the same, shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not more than five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court.”

This section was derived principally from the Acts of June 30, 1864, ch. 173, § 82 (13 Stats. 258), and of July 13, 1866, ch. 184, § 11 (14 Stats. 150).

Such provisions are manifestly intended to guard against frauds on the revenue. It is interesting to compare the provisions of this section with what is required of brewers, cigar and tobacco manufacturers, in the way of returns, etc. (b)

(a) See Appendix.

(b) *Supra*, pp. 5, 22, 26.

“SECT. 24. That the stamp taxes prescribed in this Act on the articles provided for in Schedule B shall attach to all such articles and things sold or removed for sale on and after the said first day of July, eighteen hundred and ninety-eight. Every person, except as otherwise provided in this Act, who offers or exposes for sale any article or thing provided for in said Schedule B, whether the article so offered or exposed is of foreign manufacture and imported or of domestic manufacture, shall be deemed the manufacturer thereof, and shall be subject to all the taxes, liabilities, and penalties imposed by law for the sale of articles without the use of the proper stamp denoting the tax paid thereon; and all such articles of foreign manufacture shall, in addition to the import duty imposed on the same, be subject to the stamp tax prescribed in this Act: *Provided further*, That internal revenue stamps required by existing law on imported merchandise shall be affixed thereto and cancelled at the expense of the owner or importer before the withdrawal of such merchandise for consumption, and the Secretary of the Treasury is authorized to make such rules and regulations as may be necessary for the affixing and cancelling of such stamps, not inconsistent herewith.”

This section was derived chiefly from the Act of July 13, 1866, ch. 73, § 169 (14 Stats. 297).

“With intent,” etc., does not appear in this section. (a)

“SECT. 25 That the Commissioner of Internal Revenue shall cause to be prepared for the payment of the

(a) See p. 31, n. For a full discussion of the effect of an omission to stamp goods sold, see *A Quantity of Tobacco and Cigars*, 5 Ben. 407; *United States v. Brown*, 1 Dedy, 566; 17 Int. Rev. Rec. 126; *United States v. 133 Casks of Distilled Spirits*, 1 Sawyer, 188.

taxes prescribed in this Act suitable stamps denoting the tax on the document, article, or thing to which the same may be affixed, and he is authorized to prescribe such method for the cancellation of said stamps, as substitute for or in addition to the method provided in this Act, as he may deem expedient. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to procure any of the stamps provided for in this Act by contract whenever such stamps can not be speedily prepared by the Bureau of Engraving and Printing; but this authority shall expire on the first day of July, eighteen hundred and ninety-nine. That the adhesive stamps used in the payment of the tax levied in Schedules A and B of this Act shall be furnished for sale by the several collectors of internal-revenue, who shall sell and deliver them at their face value to all persons applying for the same, except officers or employees of the internal-revenue service: *Provided*, That such collectors may sell and deliver such stamps in quantities of not less than one hundred dollars of face value, with a discount of one per centum, except as otherwise provided in this Act. And he may, with the approval of the Secretary of the Treasury, make all needful rules and regulations for the proper enforcement of this Act."

"SCHEDULE A.

"STAMP TAXES.

"Bonds, debentures, or certificates of indebtedness issued after the first day of July, anno Domini eighteen hundred and ninety-eight, by any association, company, or corporation, on each hundred dollars of face value or

fraction thereof, five cents, and on each original issue, whether on organization or reorganization, of certificates of stock by any such association, company, or corporation, on each hundred dollars of face value or fraction thereof, five cents, and on all sales, or agreements to sell, or memoranda of sales or deliveries or transfers of shares or certificates of stock in any association, company, or corporation, whether made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale whether entitling the holder in any manner to the benefit of such stock, or to secure the future payment of money or for the future transfer of any stock, on each hundred dollars of face value or fraction thereof, two cents: *Provided*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed upon such books; and where the change of ownership is by transfer certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. And any person or persons liable to pay the tax as herein provided, or any one who acts in the matter as agent or broker for such person or persons, who shall make any such sale, or who shall in pursuance of any such sale deliver any such stock, or

evidence of the sale of any such stock or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than five hundred nor more than one thousand dollars, or be imprisoned not more than six months, or both, at the discretion of the court.

“Upon each sale, agreement of sale, or agreement to sell, any products or merchandise at any exchange, or board of trade, or other similar place, either for present or future delivery, for each one hundred dollars in value of said sale or agreement of sale or agreement to sell, one cent, and for each additional one hundred dollars or fractional part thereof in excess of one hundred dollars, one cent: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale. And every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person or persons liable to pay the tax as herein provided, or any one who acts in the matter as agent or broker for such person or persons, who shall make any such sale or agreement of sale, or agreement to sell, or who shall, in pursuance, of any such sale, agreement of sale, or agreement to sell, deliver any such products or merchandise without a bill, memorandum, or other

evidence thereof as herein required, or who shall deliver such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than five hundred nor more than one thousand dollars, or be imprisoned not more than six months, or both, at the discretion of the court.

“Bank check, draft, or certificate of deposit not drawing interest, or order for the payment of any sum of money, drawn upon or issued by any bank, trust company, or any person or persons, companies, or corporations at sight or on demand, two cents.

“Bill of exchange (inland), draft, certificate of deposit drawing interest, or order for the payment of any sum of money, otherwise than at sight or on demand, or any promissory note except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding one hundred dollars, two cents; and for each additional one hundred dollars or fractional part thereof in excess of one hundred dollars, two cents. And from and after the first day of July, eighteen hundred and ninety-eight, the provisions of this paragraph shall apply as well to original domestic money orders issued by the Government of the United States, and the price of such money orders shall be increased by a sum equal to the value of the stamps herein provided for.

“Bill of exchange (foreign) or letter of credit (including orders by telegraph or otherwise for the payment of money issued by express or other companies or any person or persons), drawn in but payable out

of the United States, if drawn singly or otherwise than in a set of three or more, according to the custom of merchants and bankers, shall pay for a sum not exceeding one hundred dollars, four cents, and for each one hundred dollars or fractional part thereof in excess of one hundred dollars, four cents.

“If drawn in sets of two or more: For every bill of each set, where the sum made payable shall not exceed one hundred dollars, or the equivalent thereof, in any foreign currency in which such bill may be expressed, according to the standard of value fixed by the United States, two cents; and for each one hundred dollars or fractional part thereof in excess of one hundred dollars, two cents.

“Bills of lading or receipt (other than charter party) for any goods, merchandise, or effects, to be exported from a port or place in the United States to any foreign port or place, ten cents.

“**EXPRESS AND FREIGHT:** It shall be the duty of every railroad or steamboat company, carrier, express company, or corporation or person whose occupation is to act as such, to issue to the shipper or consignor or his agent, or person from whom any goods are accepted for transportation, a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received for carriage and transportation, whether in bulk or in boxes, bales, packages, bundles, or not so inclosed or included; and there shall be duly attached and cancelled, as is in this Act provided, to each of said bills of lading, manifests, or other memorandum, and to each duplicate thereof, a stamp of the value of one cent: *Provided*, That but one bill of lading shall be required on bundles or packages of newspapers when inclosed in

one general bundle at the time of shipment. Any failure to issue such bill of lading, manifest, or other memorandum, as herein provided, shall subject such railroad or steamboat company, carrier, express company, or corporation or person to a penalty of fifty dollars for each offence, and no such bill of lading, manifest, or other memorandum shall be used in evidence unless it shall be duly stamped as aforesaid.

“Telephone messages: It shall be the duty of every person, firm, or corporation owning or operating any telephone line or lines to make within the first fifteen days of each month a sworn statement to the collector of internal revenue in each of their respective districts, stating the number of messages or conversations transmitted over their respective lines during the preceding month for which a charge of fifteen cents or more was imposed, and for each of such messages or conversations the said person, firm, or corporation shall pay a tax of one cent; *Provided*, That only one payment of said tax shall be required, notwithstanding the lines of one or more persons, firms, or corporations shall be used for the transmission of each of said messages or conversations.

“Bond: For indemnifying any person or persons, firm, or corporation who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, fifty cents.

“Certificate of profits, or any certificate or memo-

randum showing an interest in the property or accumulations of any association, company, or corporation, and on all transfers thereof, on each one hundred dollars of face value or fraction thereof, two cents.

“Certificate: Any certificate of damage, or otherwise, and all other certificates or documents issued by any port warden, marine surveyor, or other person acting as such, twenty-five cents.

“Certificate of any description required by law not otherwise specified in this Act, ten cents.

“Charter party: Contract or agreement for the charter of any ship, or vessel, or steamer, or any letter, memorandum, or other writing between the captain, master, or owner, or person acting as agent of any ship, or vessel, or steamer, and any other person or persons, for or relating to the charter of such ship, or vessel, or steamer, or any renewal or transfer thereof, if the registered tonnage of such ship, or vessel, or steamer does not exceed three hundred tons, three dollars.

“Exceeding three hundred tons and not exceeding six hundred tons, five dollars.

“Exceeding six hundred tons, ten dollars.

“Contract: Broker’s note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, not otherwise provided for in this Act, ten cents.

“Conveyance: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction,

when the consideration or value exceeds one hundred dollars and does not exceed five hundred dollars, fifty cents; and for each additional five hundred dollars or fractional part thereof in excess of five hundred dollars, fifty cents.

“Dispatch, telegraphic: Any dispatch or message, one cent.

“Entry of any goods, wares, or merchandise at any custom-house, either for consumption or warehousing, not exceeding one hundred dollars in value, twenty-five cents.

“Exceeding one hundred dollars and not exceeding five hundred dollars in value, fifty cents.

“Exceeding five hundred dollars in value, one dollar.

“Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, fifty cents.

“Insurance (life): Policy of insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall hereafter be made upon any life or lives, for each one hundred dollars or fractional part thereof, eight cents on the amount insured: *Provided*, That on all policies, for life insurance only, issued on the industrial or weekly-payment plan of insurance, the tax shall be forty per centum of the amount of the first weekly premium. And it shall be the duty of each person, firm, or corporation issuing such policies to make within the first fifteen days of every month a sworn statement to the collector of internal revenue in each of their respective districts, of the total amount of first weekly premiums received on such policies issued by the said person, firm, or corporation during the preceding month, and upon the total amount so received, the said person, firm, or corpora-

tion shall pay the said tax of forty per centum: *Provided further*, That the provisions of this section shall not apply to any fraternal, beneficiary society, or order, or farmers' purely local coöperative company or association, or employees' relief associations operated on the lodge system, or local coöperation plan, organized and conducted solely by the members thereof for the exclusive benefit of its members and not for profit.

"Insurance (marine, inland, fire,): Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, made by any person, association, or corporation, upon the amount of premium charged, one-half of one cent on each dollar or fractional part thereof: *Provided*, That purely coöperative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property and not for profit shall be exempted from the tax herein provided.

"Insurance (casualty, fidelity, and guarantee): Each policy of insurance, or bond or obligation of the nature of indemnity for loss, damage, or liability issued, or executed, or renewed by any person, association, company, or corporation, transacting the business of accident, fidelity, employer's liability, plate glass, steam boiler, burglary, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland and fire insurance), and each bond undertaking or recognition, conditioned for the performance of the duties of any office or position, or for the doing or not doing of anything therein specified, or other obligation of the

nature of indemnity, and each contract or obligation guaranteeing the validity or legality of bonds or other obligations issued by any State, county, municipal, or other public body or organization, or guaranteeing titles to real estate or mercantile credits executed or guaranteed by any fidelity, guarantee, or surety company upon the amount of premium charged, one-half of one cent on each dollar or fractional part thereof:

“Lease, agreement, memorandum, or contract for the hire, use, or rent of any land, tenement, or portion thereof —

“If for a period of time not exceeding one year, twenty-five cents.

“If for a period of time exceeding one year and not exceeding three years, fifty cents.

“If for a period exceeding three years, one dollar.

“Manifest for custom-house entry or clearance of the cargo of any ship, vessel, or steamer for a foreign port —

“If the registered tonnage of such ship, vessel, or steamer does not exceed three hundred tons, one dollar.

“Exceeding three hundred tons, and not exceeding six hundred tons, three dollars.

“Exceeding six hundred tons, five dollars.

“Mortgage or pledge, of lands, estate, or property, real or personal, heritable, or movable, whatsoever, where the same shall be made as a security for the payment of any definite and certain sum of money, lent at the time or previously due and owing or forborne to be paid, being payable; also any conveyance of any lands, estate, or property whatsoever, in trust to be sold or otherwise converted into money, which

shall be intended only as security, either by express stipulation or otherwise; on any of the foregoing exceeding one thousand dollars and not exceeding one thousand five hundred dollars, twenty-five cents; and on each five hundred dollars or fractional part thereof in excess of fifteen hundred dollars, twenty-five cents: *Provided*, That upon each and every assignment or transfer of a mortgage, lease, or policy of insurance, or the renewal or continuance of any agreement, contract, or charter, by letter or otherwise, a stamp duty shall be required and paid at the same rate as that imposed on the original instrument.

Also provided that the stamp tax shall be at the higher rate

“Passage ticket, by any vessel from a port in the United States to a foreign port, if costing not exceeding thirty dollars, one dollar.

“³¹Costing more than thirty and not exceeding sixty dollars, three dollars.

“Costing more than sixty dollars, five dollars.

“Power of attorney or proxy for voting at any election for officers of any incorporated company or association, except religious, charitable, or literary societies, or public cemeteries, ten cents.

“Power of attorney to sell and convey real estate, or to rent or lease the same, to receive or collect rent, to sell or transfer any stock, bonds, scrip, or for the collection of any dividends or interest thereon, or to perform any and all other acts not hereinbefore specified, twenty-five cents: *Provided*, That no stamps shall be required upon any papers necessary to be used for the collection of claims from the United States for pensions, back pay, bounty, or for property lost in the military or naval service.

“Protest: Upon the protest of every note, bill of

exchange, acceptance, check or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any State or States to make such protest, twenty-five cents.

“Warehouse receipt for any goods, merchandise, or property of any kind held on storage in any public or private warehouse or yard, except receipts for agricultural products deposited by the actual grower thereof in the regular course of trade for sale, twenty-five cents: *Provided*, That the stamp duties imposed by the foregoing schedule on manifests, bills of lading, and passage tickets shall not apply to steamboats or other vessels plying between ports of the United States and ports in British North America.

“SCHEDULE B.

“Medicinal proprietary articles and preparations: For and upon every packet, box, bottle, pot, or phial, or other inclosure, containing any pills, powders, tinctures, troches or lozenges, sirups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters (except natural spring waters and carbonated natural spring waters), essences, spirits, oils, and all medicinal preparations or compositions whatsoever, made and sold, or removed for sale, by any person or persons whatever, wherein the person making or preparing the same has or claims to have any private formula, secret, or occult art for the making or preparing the same, or has or claims to have any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or

exposed for sale under any letters patent, or trademark, or which, if prepared by any formula, published or unpublished, are held out or recommended to the public by the makers, venders, or proprietors thereof as proprietary medicines, or medicinal proprietary articles or preparations, or as remedies or specifics for any disease, diseases, or affection whatever affecting the human or animal body, as follows: Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall not exceed, at the retail price or value, the sum of five cents, one-eighth of one cent.

“Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of five cents and shall not exceed at the retail price or value, the sum of ten cents, two-eighths of one cent.

“Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of ten cents and shall not exceed at the retail price or value the sum of fifteen cents, three-eighths of one cent.

“Where each packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of fifteen cents and shall not exceed the retail price or value of twenty-five cents, five-eighths of one cent. And for each additional twenty-five cents of retail price or value or fractional part thereof in excess of twenty-five cents, five-eighths of one cent.

“Perfumery and cosmetics and other similar articles: For and upon every packet, box, bottle, pot, phial, or other inclosure containing any essence, extract, toilet water, cosmetic, vaseline, petrolatum, hair oil, pomade, hair dressing, hair restorative, hair dye, tooth wash,

dentifrice, tooth paste, aromatic cachous, or any similar substance or article, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, used or applied, or to be used or applied as perfumes or as applications to the hair, mouth, or skin, or otherwise used, made, prepared, and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall not exceed at the retail price or value the sum of five cents, one-eighth of one cent.

“Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of five cents and shall not exceed the retail price or value of ten cents, two-eighths of one cent.

“Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of ten cents and shall not exceed the retail price or value of fifteen cents, three-eighths of one cent.

“Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of fifteen cents and shall not exceed the retail price or value of twenty-five cents, five-eighths of one cent. And for each additional twenty-five cents of retail price or value or fractional part thereof in excess of twenty-five cents, five-eighths of one cent.

“Chewing gum or substitutes therefor: For and upon each box, carton, jar, or other package containing chewing gum of not more than one dollar of actual retail value, four cents; if exceeding one dollar of retail value, for each additional dollar or fractional part thereof, four cents; under such regulations as the Com-

missioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

“Sparkling or other wines, when bottled for sale, upon each bottle containing one pint or less, one cent.

“Upon each bottle containing more than one pint, two cents.

“That all articles and preparations provided for in this schedule which are in the hands of manufacturers or of wholesale or retail dealers on the first day of July, eighteen hundred and ninety-eight, shall be subject to the payment of the stamp taxes herein provided for, but it shall be deemed a compliance with this Act as to such articles on hand in the hands of wholesale or retail dealers as aforesaid who are not the manufacturers thereof to affix the proper adhesive tax stamp at the time the packet, box, bottle, pot, or phial, or other inclosure, with its contents, is sold at retail.”

Schedule A is chiefly derived from the Acts of June 30, 1864, ch. 173, § 151 (13 Stats. 291); of March 3, 1865, ch. 78, § 1 (13 Stats. 481); of July 13, 1866, ch. 184 (14 Stats. 141); and of June 23, 1874, ch. 462, § 1 (18 Stats. 250)

Schedule B is chiefly derived from the Acts of June 30, 1864, ch. 173, § 170 (13 Stats. 301); and of July 13, 1866, ch. 184, § 9 (14 Stats. 145).

SCHEDULE A.

Bonds, debentures, or certificates of indebtedness issued after the first day of July, 1898, by any association, company, or corporation, on each \$100 of face value or fraction thereof	\$0.05
On each original issue of certificates of stock, on each \$100 of face value or fraction thereof . . . . .	.05
On all sales, or agreements to sell, or memoranda of sales, or deliveries or transfers of shares or certificates of stock, on each \$100 of face value or fraction thereof . . . . .	.02
On each sale, agreement of sale, or agreement to sell any products or merchandise at any exchange or board of trade, or other similar place, either for present or future delivery, for each \$100 in value of said sale, or agreement of sale, or agreement to sell .	.01

And for each additional \$100, or fractional part thereof in excess of \$100	\$0.01
On checks, drafts, or certificates of deposit not drawing interest, or order for the payment of any sum of money drawn upon or issued by any bank, trust company, or any person or persons, companies, or corporations, at sight or on demand . . . . .	.02
Inland bills of exchange, drafts, or certificates of deposit drawing interest, or order for the payment of any sum of money otherwise than at sight or on demand, or any promissory note, except bank-notes issued for circulation, and for each renewal of the same, for a sum not exceeding \$100 . . . . .	.02
And for each additional \$100, or fractional part thereof in excess of \$100 . . . . .	.02

[NOTE. — This applies to domestic money-orders issued by the United States.]

Foreign bills of exchange and letters of credit, including orders by telegraph, or issued by express, or other companies, drawn in but payable out of the United States, not exceeding \$100 . . . . .	.04
And for each \$100, or fractional part thereof in excess of \$100 . . . . .	.04
If drawn in sets of two or more, for every bill of each set not exceeding \$100 . . . . .	.02
And for each \$100, or fractional part thereof in excess of \$100 . . . . .	.02
Bills of lading or receipts, other than charter party, for merchandise to be exported from the United States to any foreign port . . . . .	.10
Bills of lading for goods shipped by common carriers on the original and each duplicate . . . . .	.01

[NOTE. — But one bill of lading shall be required on bundles or packages of newspapers when enclosed in one general bundle at the time of shipment. Failure to issue these bills of lading entails a penalty of \$50 on carrier for each offence.]

Telegraphic despatches . . . . .	.01
Bonds except such as may be required in legal proceedings . . . . .	.50
Certificates of profits, or any certificate or memorandum showing an interest in the property or accumulations of any association, and all transfers thereof, on each \$100 of value or fractional part thereof . . . . .	.02
Certificates of damage issued by port-wardens, etc. . . . .	.25
Certificates of any description required by law not otherwise specified . . . . .	.10
Charter party, vessel not exceeding 300 tons (registered tonnage)	3.00
Charter party, vessel exceeding 300 and not exceeding 600 tons	5.00
Charter party, vessel exceeding 600 tons	10.00
Broker's note or memorandum of sale . . . . .	.10

Conveyances of real estate, consideration or value exceeding \$100 and less than \$500	\$0.50
For each additional \$500 or fractional part thereof . . . . .	.50
Custom-house entry of goods, not exceeding \$100 in value . . .	.25
Custom-house entry of goods, exceeding \$100 and not exceeding \$500 . . . . .	.50
Custom-house entry of goods, exceeding \$500	1.00
Entry for withdrawal of any merchandise from customs bonded warehouses . . . . .	.50
Life-insurance policies: each \$100 or fractional part thereof of amount insured . . . . .	.08
Provided, that on life insurance policies issued on the industrial or weekly payment plan, of the amount of the first weekly premium	40 per cent

[NOTE. — Provisions do not apply to fraternal or beneficiary societies or orders, or farmers' purely local co-operative companies or associations, or employees' relief associations, operated on the lodge system or local co-operation plan, organized and conducted solely by the members thereof for the benefit of themselves, and not for profit.]

Marine, inland, and fire insurance: upon premium charged on each dollar or fractional part thereof $\frac{1}{2}$ of 1 per cent

[NOTE. — Purely co-operative or mutual fire insurance companies carried on by members not for profit exempted.]

Casualty, fidelity, and guaranty insurance: upon premium charged on each dollar or fractional part thereof	$\frac{1}{2}$ of 1 per cent
Leases, not exceeding one year . . . . .	.25
Leases, exceeding one year but not three . . . . .	.50
Leases, exceeding three years	1.00
Custom-house manifests for entry or clearance, tonnage of vessel not exceeding 300 tons	1.00
Custom-house manifests for entry or clearance, tonnage of vessel exceeding 300 and not exceeding 600 tons	3.00
Custom-house manifests for entry or clearance, tonnage of vessel exceeding 600 tons	5.00
Real estate and personal mortgages or pledges for securing payment of any definite or certain sum, also conveyances in trust intended only as security, exceeding \$1,000 and not exceeding \$1,500 . . . . .	.25
For each \$500 or fractional part thereof in excess of \$1,500 . .	.25
Passage tickets to foreign ports, costing not exceeding \$30 . .	1.00
Passage tickets to foreign ports, costing more than \$30 and not exceeding \$60	3.00
Passage tickets to foreign ports, costing more than \$60	5.00

Power of attorney or proxy for voting at elections for officers of incorporated companies, other than religious, charitable, or literary societies, or public cemeteries	\$0.10
Power of attorney to sell or rent real estate, to sell or transfer stock, bonds, scrip, or to collect dividends or interest thereon, or to perform any and all other acts not above specified . . .	.25
Protest . . . . .	.25
Warehouse receipts . . . . .	.25
Telephone companies are required to pay on each message, on which 15 cents or more are charged, 1 cent.	
No stamps are required for papers necessary for collection of claims for pensions, back pay, bounty, or property lost in military or naval service. (a)	

"A few simple rules will dispose of the most of the difficulties that may arise:—

"1st. Instruments described in technical language or in terms especially descriptive of their own character are classed under that head and are not to be included in the general words of the statute. 2d. The words of the statute are to be taken in the sense in which they will be understood by that public in which they are to take effect. Science and skill are not required in their interpretation, except when scientific or technical terms are used. 3d. The liability of an instrument to a stamp duty, as well as the amount of such duty, is determined by the form and face of the instrument, and cannot be affected by proof of facts outside of the instrument itself. 4th. If there is a doubt as to the liability of an instrument to taxation, the construction is in favor of the exemption, because, in the language of Pollock, C. B., in *Gurr v. Scudds*, 11 Exch. 191, 'a tax cannot be imposed without clear and express words for that purpose.' These principles are based in good sense and are sustained by the authorities." (b)

Whenever the writing constitutes in itself the sole evidence of the contract, whether it has or has not been signed by the parties, it requires a stamp. (c) For bare licenses and authorities, not amounting in themselves to evidence of a contract, no stamp is required, such as authority to discharge a debt, or pay money, or sell goods, or authority or request to provide board and lodging for an illegitimate child, etc. (d)

(a) This summary of Schedule A has been issued in Circular No. 503, of July 13, 1898.

(b) *Mr. Justice Hunt in United States v. Isham*, 17 Wall. 503.

(c) *Chadwick v. Clarke*, 1 C. B. 700.

(d) *Pyle v. Partridge*, 15 M. & W. 20; *Parker v. Dubois*, 1 M. & W. 30;

Bare offers and proposals not acceded to and accepted in writing, and not amounting to evidence of a concluded contract, are in general admissible in evidence without a stamp. (*a*) Bare admissions and acknowledgments, not amounting to written evidence of a contract, are admissible in general without a stamp. (*b*) The Commissioner has just ruled that merchandise brokers need not stamp both buyers' and sellers' contracts under the present Act. The original note or memorandum of sale is alone held to be subject to the tax, and further, a mere memorandum accompanying an offer to purchase is subject to the tax only when the offer is accepted. (*c*)

If there is no other evidence of the contract but what is afforded by the written memorandum, there must be a stamp. (*d*)

The Commissioner has recently ruled that rent receipts are not subject to the tax. If, however, the receipt contains any provision involving a contract it is taxable. (*e*)

Trade-marks and good-will are property, so that an agreement regarding their sale is liable to stamp duty. (*f*)

New bonds issued by a United States railway company under a reorganization scheme, and signed, not by the trust company in New York, but by its vice-president in London, and delivered to the bondholders of the old company in England, are marketable securities by or on behalf of a foreign company issued in the United Kingdom, under the English Stamp Act of 1891, § 82, subs. 1 (b) (1). (*g*) A new bond, received under a scheme for transferring the business of an English company to an American company, is not issued or offered for subscription, or delivered to a subscriber, or assigned or transferred within the United Kingdom, within the English Stamp Act of 1891, § 82, subs. 1 (b), or chargeable with the duty upon foreign marketable securities. (*h*)

An agreement in England for the sale of a share in a patent

Humphreys v. Briant, 4 C. & P. 157; *Diplock v. Hammond*, 23 L. J. Ch. 550; *Bethell v. Blencome*, 3 Sc. N. R. 568, 573; *Hill v. Ramm*, 6 Sc. N. R. 571; *Fishwick v. Milnes*, 19 L. J. Ex. 153; *Vanghton v. Brine*, 1 Sc. N. R. 258; *Lucas v. Beach*, Id. 350; *Beeching v. Westbrook*, 8 M. & W. 411.

(*a*) *Clay v. Crofts*, 20 L. J. Ex. 361; *Penniford v. Hamilton*, 2 Starkie, 475.

(*b*) *Israel v. Israel*, 1 Camp. 499; *White v. North*, 3 Exch. 689; *Hyne v. Dewdney*, 21 L. J. Q. B. 278; *Melanotte v. Teasdale*, 13 L. J. Ex. 358.

(*c*) Commissioner's Rulings of July 13, 1898.

(*d*) *Bowen v. Fox*, 2 M. & R. 167.

(*e*) Commissioner's Rulings, August, 1898.

(*f*) *Brooke v. Inland Rev. Com'rs*, [1896] 2 Q. B. 356.

(*g*) *Baring v. Inland Rev. Com'rs*, [1898] 1 Q. B. 78.

(*h*) *Chicago Ry. T. Elevator Co. v. Inland Rev. Com'rs*, 75 L. T. Rep. 157.

granted in New South Wales, and a sole license to use the invention in a specified district of New South Wales, are liable to *ad valorem* stamp duty as though an actual conveyance on sale under the English Stamp Act of 1891, § 59, subs. 1, such share and license being property. (a)

Where there was an agreement under seal for the sale of the good-will of a hotel and licensed victualling business, and for a lease of the hotel, together with the furniture, stock in trade, cash and book debts, the seller to execute a declaration of trust to the leasehold premises in favor of the purchaser, if the landlords refused to consent to an assignment of the lease, this was held not to be an agreement for the sale of an equitable interest in property within the English Stamp Act of 1891, § 59, subs. 1; which provides that any contract or agreement for the sale of any equitable interest in any property, or for the sale of any interest in any property, except lands, shall be charged with the same *ad valorem* duty as if it were an actual conveyance on sale of the interest or property agreed to be sold. Such an agreement is liable to duty upon the amount of book debts only. (b)

An exchange by a shareholder in one company of his shares for those in another company is not an exchange within the English Stamp Act of 1891, § 73, but is a conveyance on sale within §§ 54, 55, and subject to *ad valorem* stamp. (c)

For the purpose of the English Stamp Act of 1891, an instrument granting a perpetual annuity has been treated as a conveyance on sale, and not as a security for the payment of any annuity by way of a repayment of a loan, advance, or payment intended to be so repaid. This Act of 1891 provides, in § 54, that a conveyance on sale shall include every instrument whereby any property is transferred to or vested in a purchaser. (d)

Debentures undertaking to pay £100 on a day certain, together with a premium of £7, are marketable securities, not transferable by delivery within Schedule I of the Stamp Act of 1891, and are liable to *ad valorem* duty upon the amount of the principal and premium, namely, £107. (e)

A bond sent over to England from America has been held not to become a valid bond until the authentication in London of the certificate indorsed thereon by the signature of the president of the

(a) *Australia Smelting Co. v. Inland Rev. Com'rs*, [1897] 1 Q. B. 175.

(b) *West London Syndicate v. Inland Rev. Com'rs*, [1898] 1 Q. B. 226.

(c) *Coats v. Inland Rev. Com'rs*, [1897] 1 Q. B. 778.

(d) *Mersey Docks and H. Board v. Inland Rev. Com'rs*, [1897] 1 Q. B. 786.

(e) *Rowell v. Inland Rev. Com'rs*, [1897] 2 Q. B. 194.

trust company which was acting as trustee, and was, therefore, held a marketable security issued in the United Kingdom, within the meaning of § 82, subs. 1 (b) (1), of the Stamp Act of 1891, and subject to the tax. (a)

In calculating the value of the subject-matter of the contract, regard must be had to the consideration or immediate inducement for the undertaking or promise sought to be inferred, and not to the value of the thing concerning which the contract has been made. (b) If no sum whatever is expressed in the order, and the total amount directed to be paid is indefinite, there is nothing to determine the amount of the stamp duty, and the instrument cannot consequently be stamped at all. (c) When an instrument is stamped according to its face value, it is good until it is shown that the statement is untrue. (d)

If the terms of an instrument are subsequently varied, there must be a new stamp. (e) If immaterial matters are changed, or a mistake is corrected, a new stamp is not necessary. (f) These rules apply to bills and notes as well as to other instruments. (g)

If a bill be either lost or detained by the opposite side, after notice to produce, the presumption of law is that it was duly stamped, unless the contrary be shown. (h)

The reservation of interest on a bill or note does not in any case render a larger stamp necessary; the object of the legislature being to impose a *pro rata* stamp duty on the sum actually due at the time of taking the security; not upon what might become due in future for the use of the money, although it is reserved from a day prior to the date of the instrument. (i)

An instrument that has been paid at maturity by the party primarily liable cannot be reissued. (j)

The intent with which a deed is accepted by the grantee, or the

(a) *Baring v. Inland Rev. Com'rs*, [1898] 1 Q. B. 78.

(b) *Chadwick v. Sills*, R. & M. 15; *Latham v. Rutley*, Id. 13; *Baldwin v. Alsager*, 13 M. & W. 366; *Doe v. Wiggins*, 4 Q. B. 367; *Doe v. Amos*, 2 M. & R. 180; *Ames v. Hill*, 2 B. & P. 150; *Semple v. Steinau*, 8 Exch. 624; *Pember-ton v. Vanghn*, 10 Q. B. 87; *Taylor v. Steele*, 16 L. J. Ex. 177.

(c) *Crowfoot v. Gurney*, 2 M. & Sc. 473; *Jones v. Simpson*, 3 D. & R. 545.

(d) 33 & 34 Vict. ch. 97, § 13.

(e) *Reed v. Deere*, 7 B. & C. 265.

(f) *Byrom v. Thompson*, 11 Ad. & E. 31; *Farquhar v. Southey*, Moo. & M. 14.

(g) See cases just cited.

(h) *Marine Ins. Co. v. Haviside*, L. R. 5 H. L. 625.

(i) *Pruessing v. Ing*, 4 B. & Ald. 204; *Wills v. Noot*, 4 Tyrw. 726.

(j) *Morley v. Culverwell*, 7 M. & W. 174; *Bartrum v. Caddy*, 9 A. & E. 275

use he puts it to, or makes of it, is immaterial. But whoever accepts a draft or order thereby becomes an active party thereto. To the extent that he makes or emits it, it gives it a new life and circulation, and the intention with which he does so, so far as the stamp duty is concerned, is placed by the Stamp Act in the same category as that of the maker. (a)

An order on A by B, which circulated as money, was not, under the former law, required to be stamped as a promissory note or memorandum, but is in form a check; as it is not a check on a bank or banker, it is not subject to stamp duty; even if it were a device to avoid the Revenue Acts, yet being carried out by legal means, it was not subject to censure. (b) It would seem as if the wording of the present law pertaining to checks is broad enough to cover a case like the above. And indeed the Commissioner has just ruled that a person must place a stamp on an order for cash drawn on a merchant by one of his customers. (c)

Even if the consent of all parties has been obtained to an alteration in a material part, such alteration, nevertheless, avoids the bill under the stamp laws; for it is become a new and different instrument, and therefore requires a new stamp; which stamp cannot then be affixed. (d) Thus where the drawer of a bill payable to his own order sent it to the drawee for acceptance, and as the latter requested that a longer time might be allowed for payment, an alteration to that effect was made with the consent of the drawer, and the bill was afterwards accepted, it was held that, the alteration being made before the bill was an available instrument against any party, a new stamp was unnecessary. (e) There are, however, two cases in which an alteration, though in a material part, will not vacate the instrument: first, when such an alteration is made before the bill is issued, or becomes an available instrument; (f) secondly, when the bill is altered to correct a mistake or supply an omission, and in furtherance of the original intention of the parties. (g)

Any alteration in the date, sum, or time of payment, the inser-

(a) *Dowell v. Applegate*, 8 F. R. 698.

(b) *United States v. Isham*, 17 Wall. 496.

(c) Supplement to Circular 503 of August 16, 1898.

(d) *Wilson v. Justice*, Bayley on Bills (6th ed.), 118; *Bowman v. Nichol*, 5 T. R. 537.

(e) *Kennerley v. Nash*, 1 Stark. 452.

(f) *Kennerley v. Nash*, 1 Stark. 452.

(g) *Kershaw v. Cox*, 3 Esp. 246; *Jacobs v. Hart*, 2 Stark. 45; *Byrom v. Thompson*, 11 Ad. & El. 31.

tion of words rendering negotiable an instrument which before was not so, or altering the words "value received" into an expression of the particular consideration which passed, is a material alteration avoiding the bill under the Stamp Acts. (a) But the addition of another name to a joint and several note, on a different part of the face of the note, with the assent of all parties, has been held to operate as an indorsement. (b) If the alteration is merely to correct a mistake, or to make a bill what it was originally intended to be, it will not avoid it under the Stamp Act. (c) When the date is altered, a new bill cannot be drawn without a new stamp. (d) So if a promissory note be signed by A, and subsequently by B as surety for A, while the note is in the hands of the payee, it will be void unless the signature of B is in pursuance of a previous agreement made at the time of making the note. (e)

It has been decided recently by the Attorney-General's office that by the terms of this Act carriers must pay the tax on goods consigned to them for carriage and not the shippers. (f) Express companies have made strenuous efforts to make the shippers pay the tax, and threaten to take the matter to the highest courts. They can doubtless raise their rates of carriage to the extent of the tax.

When several interests are insured by one contract or policy, the duty must be calculated upon the amount of the several interests; if it is uncertain at the time the contract is made into what fractional parts the whole sum may be divided in proportion to the several interests, a stamp must be imposed large enough to cover all of them. (g) Where there are "open policies" of insurance under certain conditions, the required stamps can be affixed to the books of the company on which the amount of premiums under such "open policies" are charged. (h)

If a lease under seal also contains a covenant on the part of the lessor to sell the demised premises to the lessee, a deed stamp is

(a) *Bathe v. Taylor*, 15 East, 412; *Walton v. Hastings*, 4 Camp. 223; *Outhwaite v. Luntley*, *Id.* 179; *Knill v. Williams*, 10 East, 431.

(b) *Ex parte Yates*, 2 De G. & J. 191. But see *Gardner v. Walsh*, 5 E. & B. 82.

(c) *Ex parte Yates*, 2 De G. & J. 191.

(d) *Outhwaite v. Luntley*, 4 Camp. 179.

(e) *Clerk v. Blackstock*, Holt N. P. 474. See *Ex parte White*, 2 Deacon & Chit. 334.

(f) A. G. Op. (July, 1898).

(g) *Rapp v. Allnutt*, 15 East, 601.

(h) Circular 504, of July 20, 1898. See Appendix.

not requisite in addition to the lease stamp, as the sale is ancillary to the lease; (a) but if the covenant embraces other and different premises, there must be a deed stamp in addition to the lease stamp. (b) If there is a guaranty as to payment of the rent, this is ancillary to the lease, and one stamp suffices; (c) but if the guaranty is not in a matter ordinarily or necessarily incident to the lease, there must be a deed stamp as well as a lease stamp. (d) If there are several leases to different grantees, (e) or several surrenders, (f) or several releases, (g) on one piece of parchment separate stamps are required; but where there was but one releasee, one was held enough. (h) A mere acknowledgment of an antecedent tenancy, or of an existing tenancy, does not require a lease stamp. (i)

Where several matters are set forth and authenticated by one written document so connected together as to form one contract and transaction, one stamp is sufficient. (j)

Agreements and leases on one sheet of paper must have both a lease and an agreement stamp, unless the agreement is strictly ancillary to the lease, and the two are necessarily connected together and form part of one entire contract. (k)

A compounding with creditors is one transaction, and requires one stamp. (l)

Where several persons have executed a power of attorney, only one stamp is required. (m)

(a) *Worthington v. Warrington*, 17 L. J. C. P. 117.

(b) *Price v. Thomas*, 2 B. & Ad. 218.

(c) *Pratt v. Thomas*, 4 C. & P. 554.

(d) *Wharton v. Walton*, 7 Q. B. 474.

(e) *Doe v. Day*, 13 East, 241.

(f) *Reg. v. Everdon*, 16 L. J. Q. B. 18.

(g) *Rex v. Weeks*, 2 Ld. Raym. 1445.

(h) *Perry v. Bouchier*, 4 Camp. 80; *Rushbrook v. Hood*, 17 L. J. C. P. 58.

(i) *Glen v. Dungey*, 4 Exch. 61; *Doe v. Wiggins*, 4 Q. B. 375.

(j) *Doe v. Fereday*, 12 Ad. & El. 26, 27; *Wilson v. Smith*, 12 M. & W. 401; *Annandale v. Pattison*, 9 B. & C. 919; *Wolseley v. Cox*, 2 Q. B. 321; *Rex v. Louth*, 8 B. & C. 247; *Doe v. Phillips*, 11 Ad. & E. 796.

(k) *Wharton v. Walton*, 7 Q. B. 474.

(l) *Mansfield*, Ch. J., in *Bowen v. Ashley*, 1 B. & P. N. R. 278.

(m) *Allen v. Morrison*, 8 B. & C. 565.

As to what instruments are subject to stamp duty and to what amount, see *United States v. Learned*, 1 Abb. (U. S.) 483; *United States v. Baltimore*, etc. R. R. Co., 7 Am. L. Reg. n. s. 757; *Brown v. Tonkin*, 1 Cranch C. C. 85; 8 Int. Rev. Rec. 148; *First Nat. Bank v. Morsell*, 1 MacArth. 155; *Griffith v. Hirschfield*, 1 Mont. Ter. 66; *United States v. 133 Casks of Distilled Spirits*, 1 Sawyer,

In Circular No. 503 of July 13, 1898, the Commissioner has published the following rulings: —

“1. Checks drawn by United States disbursing officers against public funds standing to their official credit in performance of

188; *Merchants' Bank v. State Bank*, 10 Wall. 604; *United States v. Isham*, 17 Wall. 496; *Hall v. Jordan*, 19 Wall. 271.

For decisions upon the requirements and administration, in matters of detail, of the provisions of former internal revenue laws requiring stamps upon instruments, see *Pugh v. McCormick*, 14 Wall. 361; *United States v. Isham*, 17 Wall. 496; *Hall v. Jordan*, 19 Wall. 271; *United States v. Baltimore, etc. R. R. Co.*, 7 Am. L. Reg. N. s. 757; 8 Int. Rev. Rec. 148; *United States v. 133 Casks Distilled Spirits*, 1 Sawyer, 188; *United States v. Learned*, 1 Abb. (U. S.) 483; *Platt, Receiver, v. Broach*, 36 How. Pr. 188.

For former Acts of Congress requiring stamps to be affixed to certain written instruments, see Act of June 30, 1864, § 151 (13 Stat. at L. 291); Act of March 3, 1865, § 1 (Id. 481); Act of July 13, 1866 (14 Id. 141); Act of June 23, 1874, ch. 462, § 1 (18 Id. 250). See Edwards' Stamp Act.

For decisions of Federal courts on the construction and operation of these laws, see *James v. Blauvelt*, 16 Law Rep. N. s. 485; *United States v. Baltimore, etc. R. R. Co.*, 7 Am. L. Reg. N. s. 757; 8 Int. Rev. Rec. 148; *Campbell v. Wilcox*, 10 Wall. 421; *Pugh v. McCormick*, 14 Wall. 361; *United States v. Isham*, 17 Wall. 496; *United States v. Smith*, 1 Sawyer, 192; *United States v. Learned*, 1 Abb. (U. S.) 483; *United States v. Brown, Deady*, 566; *Kinney v. Consolidated, etc. Min. Co.*, 4 Sawyer, 382.

For decisions of State courts on the stamp laws of Congress, see 7 U. S. Digest, tit. Internal Revenue, §§ 22-63; also *Davy v. Morgan*, 56 Barb. 218; *Coppernoll v. Ketcham*, Id. 111; *Griffin v. Ranney*, 35 Conn. 239; *Schermerhorn v. Burgess*, 55 Barb. 423; s. c. 38 How. Pr. 123; *Pacific Bank v. De Ro*, 37 Cal. 538; *Jones v. Jones*, 38 Cal. 584; *DeLorme v. Ferk*, 24 Wis. 201; *Kennedy v. Morrisou*, 31 Tex. 207; *Tucker v. Potter*, 35 Coun. 43; *Miller v. Larmon*, 38 How. Pr. 417; *Werbiskie v. McManus*, 31 Tex. 116; *Black v. Nettles*, 25 Ark. 606; *Spear v. Alexander*, 42 Ala. 572; *Craig v. Dimock*, 47 Ill. 308; *Boston v. Nichols*, Id. 353; *Cross v. People*, Id. 152; *Whigham v. Pickett*, 43 Ala. 140; *Vaughan v. O'Brien*, 57 Barb. 491; s. c. 39 How. Pr. 515; *Sawyer v. Parker*, 57 Me. 39; *Hanford v. Obrecht*, 49 Ill. 146; *Clemens v. Conrad*, 19 Mich. 170; *Wilson v. McKenna*, 52 Ill. 43; *People v. Gates*, 43 N. Y. 40; *Sammons v. Halloway*, 21 Mich. 162; *D'Armond v. Dubose*, 22 La. Ann. 131; *Schultz v. Herndon*, 32 Tex. 390; *Stolte v. Herndon*, Id. 392; *Fraser v. Robinson*, 42 Miss. 121; *Cook v. Shearman*, 103 Mass. 21; *Berry v. Boyd*, 28 Iowa, 410; *Mercer v. Mercer*, 29 Iowa, 557; *Susong v. Williams*, 1 Heisk. 625; *Angier v. Smalley*, 58 Me. 425; *Van Wickle v. Poydras*, 22 La. Ann. 70; *Rees v. Jackson*, 64 Penn. St. 486; *Hoops v. Atkins*, 41 Ga. 109; *Logan v. Dils*, 4 W. Va. 397; *Hetzell v. Gregory*, 7 Phila. 148; *Green v. Holway*, 101 Mass. 243; *Sporrer v. Eifler*, 1 Heisk. 633; *Jacobs v. Cunningham*, 32 Tex. 774; *Hale v. Wilkinson*, 21 Gratt. 75; *Jacobs v. Spofford*, 34 Tex. 152; *Hellman v. Reis*, 1 Cin. 30; *Atkins v. Plympton*, 44 Vt. 21; *Robinson v. Lair*, 31 Iowa, 9; *Bowker v. Goodwin*, 7 Nev. 135; *Taylor v. Duncan*, 33 Tex. 440; *Frink v. Thompson*, 4 Lans. 489; *Janvrin v. Fogg*, 49

duties required by law do not require a 2-cent internal revenue stamp placed thereon. And all checks drawn by officers of States, counties, and municipalities for the discharge of the obligations of States, counties, and municipalities are exempt under section 17 of the Act.

“2. No stamp is required on ordinary receipts.

“3. The exemption from tax on warehouse receipts for agricultural products is restricted to receipts for products of this kind, which are deposited by the actual grower thereof in the regular course of trade for sale. This does not exempt warehouse receipts for such products in case the property deposited has already passed from the ownership of the actual grower.

N. H. 340; *Rheinstrom v. Cone*, 26 Wis. 163; *Brown v. Thompson*, 59 Me. 372; *Morris v. McMorris*, 44 Miss. 441; *Moore v. Moore*, 47 N. Y. 467; *Moore v. Quirk*, 105 Mass. 49; *Mogelin v. Westhoff*, 33 Tex. 788; *Glidden v. Highbee*, 31 Iowa, 379; *Union Agricul., etc. Ass'n v. Neill*, Id. 95; *Waterbury v. McMillan*, 46 Miss. 635; *Duffy v. Hobson*, 40 Cal. 240; *Bumpass v. Taggart*, 26 Ark. 398; *Wallace v. Cravens*, 34 Ind. 534; *Davis v. Richardson*, 45 Miss. 499; *Dailey v. Coker*, 33 Tex. 815; *Mohile, etc. R. R. Co. v. Edwards*, 46 Ala. 267; *Corrie v. Billiu*, 23 La. Ann. 250; *Owsley v. Greenwood*, 18 Minn. 429; *Prather v. Zulauf*, 38 Ind. 155; *Cabbott v. Radford*, 17 Minn. 320; *Browne v. Bennett*, 24 La. Ann. 618; *Doffin v. Guyer*, 39 Ind. 215; *Corry Nat. Bank v. Rouse*, 3 Pittsb. 18; *Baker v. Baker*, 6 Lans. 509; *Timp v. Dockham*, 29 Wis. 440; *State v. Hill*, 30 Wis. 416; *Ricord v. Jones*, 33 Iowa, 26; *Bernard's Succession*, 24 La. Ann. 402; *Patterson v. Gile*, 1 Col. T. 200; *Grand v. Cox*, 24 La. Ann. 462; *Turner v. State*, 48 Ala. 549; *Forcheimer v. Holly*, 14 Fla. 239; *Works v. Hershey*, 35 Iowa, 340; *Morgan v. Graham*, Id. 213; *Black v. Woodrow*, 39 Md. 194; *Chartiers, etc. Turnp. Co. v. McNamara*, 72 Penn. St. 278; *Myers v. McGraw*, 5 W. Va. 30; *Kile v. Johnson*, 48 Ga. 189; *Foster v. Holley*, 49 Ala. 593; *Alter v. McDougal*, 26 La. Ann. 245; *Pargoud v. Richardson*, Id. 672; s. c. 30 La. Ann. Part II. 1286; *Emery v. Hobson*, 63 Me. 33; *Rowland v. Plummer*, 50 Ala. 182; *Reis v. Hellman*, 25 Ohio St. 180; *Perryman v. Greenville*, 51 Ala. 507; *Oxford Iron Co. v. Spradley*, Id. 171; *Chaffe v. Ludeling*, 27 La. Ann. 607; *Miller v. Wentworth*, 82 Penn. St. 280; *Stewart v. Hopkins*, 30 Ohio St. 502; *Garish v. Hyman*, 29 La. Ann. 28; *Bibb v. Bonds*, 57 Ala. 509.

On stamp laws and decisions thereunder see Bump, Internal Revenue Laws; Bump, United States Stamp Laws; Boutwell, Manual of the United States Tax System; Davidge and Kimball, Internal Revenue Laws; Dresser, Internal Revenue Laws; Edwards, Stamp Act; Byles on Bills, sections on stamps; Addison on Contracts, sections on stamps; and the following articles: Municipal Corporations and the Revenue Tax, 7 Alb. L. J. 257; Unstamped Instruments as Evidence, Ibid. 49; The Internal Rev. System, 2 Am. L. Rev. 240; Violations of the Int. Rev. Law, *United States v. McKee*, 4 Dillon, 128, 12 Cent. L. J. 159; Unstamped Instruments, 10 Am. L. Reg. n. s. 481; Stamps, 11 Ibid. 137. On the Admissibility in Evidence of Instruments not duly stamped, as required by Law, see 6 West. Jur. 17.

"4. An inland bill of exchange, within the meaning of this Act, is a bill of exchange drawn and made payable anywhere in the United States.

"5. Any order for payment of money drawn in, but payable out of the United States, if drawn singly, is subject to tax of 4 cents for \$100 or less, and for each additional hundred dollars or fraction, 4 cents.

"6. Where certificates of shares were sold and delivered before July 1, 1898, entry of transfer on corporate books after June 30 does not require stamp.

"7. New certificates of stock issued to holder in lieu of original certificate, and remaining in his ownership, do not require stamps.

"8. When certificate of stock is sold and stamp tax is paid on memorandum thereof, upon transfer of this certificate to purchaser's name, no additional tax for such transfer is required. Where one certificate represents several shares of stock (however large the number of shares), on transfer of this certificate the stamp tax is to be reckoned on its face value, and not on the face value of each separate share of stock which it represents.

"9. A 2-cent stamp is required on an order for cash drawn on a merchant by one of his customers.

"10. Certificates of deposit drawing interest, if left a certain time, are taxable the same as promissory notes.

"11. The withdrawal of funds by a depositor on the presentation of his bank book to the savings bank, does not require a stamp, if there is nothing accompanying it in the form of an order for the payment of money.

"12. If papers in the nature of receipts are given in lieu of checks, and are used as commercial negotiable instruments, they are checks and not receipts, and are subject to tax.

"13. Where certificates of stock are delivered as collateral, the stock to be forfeited only upon condition of failure to pay the debt for which it is pledged, a stamp is required as a pledge and not as a sale.

"14. Real-estate mortgage notes require to be stamped in addition to the stamps placed on the mortgage.

"15. Where there is a pledge of property accompanying any promissory note, which pledge is subject to stamp tax under Schedule A, this stamp tax must be paid, notwithstanding the fact that a stamp is also required on the note connected with it.

"16. Only purely co-operative or mutual fire insurance companies carried on by the members thereof solely for the protec-

tion of their own property, and not for profit, are exempted from taxation.

“17. Assessment beneficiary life insurance associations insuring their own members, and not for profit, come within the exempting provision.

“18. The exemption given to fraternal beneficiary life insurance associations applies also to fraternal beneficiary accident insurance associations.

“19. In cases of loans on real estate, where promissory notes are given, which are not paid at maturity, but on which an extension of time of payment is granted, without the taking of a new note, it is held that every such extension is a renewal of the note within the meaning of the statute, and that the requisite stamp must be affixed for every such renewal or extension. This also applies to notes discounted before July 1, falling due on or after that date.

“20. The person who signs and issues a bank check, without affixing the proper stamp, becomes involved in liability to penalties under section 10 of the Act, unless it is shown that he had no design to evade the payment of the stamp tax, and that the requisite stamp was affixed and cancelled by the bank or person upon whom it was drawn before payment.

“21. Where a check is presented at a bank, without having the requisite stamp affixed, the bank, if it pays such unstamped check, becomes liable to the penalty provided by section 10 of the Act. Bank may cure defect by affixing proper stamp.

“22. Bucket-shop proprietors giving memorandum of transactions are required to pay special tax as brokers.

“23. Where a tax of 10 cents is paid on the bill of lading for goods exported, it is held that no stamp tax is required to be paid on copies of such bills of lading.

“24. On inland bills of lading, ‘each duplicate’ requires ‘a stamp of the value of one cent.’

“25. Bills of lading for exportations by railroad to British North America require a 10-cent stamp.

“26. A wharf receipt given to a shipper, in exchange for which a bill of lading is issued, does not require a stamp.

“27. Baggage forwarded by railroad company or express, subject to extra charges, comes within the law requiring stamp on bill of lading, or other evidence of receipt and forwarding.

“28. It is the duty of carriers to issue a bill of lading or receipt for goods accepted by them for shipment, and to affix the stamp, and a penalty is prescribed for failure to do so.

“29. Mere local operators for the delivery of packages, baggage, and such like, within the limits of the same town or city, are not required to give bills of lading. Although such operators may give a receipt for articles to be delivered, such receipt is not required to be stamped. A mere carrier, as, for instance, a person with a horse and wagon, who does a local delivery business in a city or town, is not included within the above requirement. The carriers which were intended to be included within the terms of Schedule A, under the head of ‘Express and Freight,’ are such as are engaged in the transportation of express matter and freight from one place to another in the ordinary course of commerce and trade.

“30. Tickets issued in the United States for passage on a vessel not sailing from any port of the United States, but from a Canadian port (or other foreign port), are not subject to stamp tax.

“Tickets issued in Canada for passage on a vessel sailing from a United States port are not subject to stamp tax.

“The only passage ticket for which stamp tax is required to be paid by this statute is a ticket issued for transportation of the passenger ‘by any vessel from a port in the United States to a foreign port.’ When, therefore, to such passenger ticket there is attached another ticket entitling the passenger, after his arrival at the foreign port, to transportation to various points in Europe, or elsewhere, such additional ticket is not subject to stamp tax.

“The stamp tax for a passenger ticket may be affixed thereto and cancelled at the time and place where it is issued, or it may be affixed and cancelled at the pier before the passenger boards the vessel.

“Where one passenger ticket is issued, even though it contains several names, but one stamp tax is required to be paid thereon.

“31. There is no exemption from the stamp tax on charity tickets issued at low rates.

“32. Barges are not included in the term ‘vessel’ in the paragraph relating to charter party.

“33. The manifest for custom-house entry or clearance of the cargo of any ship, or vessel, or steamer for a foreign port does not include ship’s supplies for its voyage. It only includes those things which the ship has taken aboard for transportation.

“34. Stamp duties imposed on manifests, bills of lading, and passage tickets do not apply to steamboats or other vessels plying between the ports of the United States and ports in British North America.

“35. A telegraphic despatch or message is required to be stamped by the person who makes, signs, or issues it.

“36. There is no tax upon the bill of sale of a vessel. A mortgage of a vessel requires a stamp as a mortgage of personal property.

“37. Dray receipt given at export steamer's wharf does not require a stamp in addition to bills of lading which are stamped. Shipping receipts given by common carriers of freight for goods to be transported to port of export require stamp.

“38. Where a bond is given with a guaranty company as surety, the bond should have, in addition to a 50-cent stamp, as required under the head of ‘Bond,’ in Schedule A, a stamp denoting one-half of 1 cent on each dollar or fractional part thereof paid by the principal obligor on the bond as a premium, under that paragraph of Schedule A relating to guaranty companies. (United States officers required to give bond will take notice.)

“39. Bonds ‘required in legal proceedings’ are exempt from stamp tax. They are such as are required in litigation in either civil or criminal cases, such as prosecution bonds, injunction bonds, bonds to stay proceedings, bonds upon appeal, writs of error, bonds for costs, and the like; and in criminal cases, recognizances, bonds for appearance, bail bonds, and also bonds in criminal cases upon appeal and writs of error, supersedeas bonds, etc. Bonds given by persons appointed by the court, conditioned for the faithful performance of the duties of their office or position, such as receivers, assignees, executors, administrators, and guardians, are not exempt, and the stamp tax must be paid thereon.

“40. Tickets, which are on the face merely memoranda of money due (*e. g.*, John Doe, June 25, 1898, \$15.00), and do not contain any language making them checks or orders for the payment of money or promissory notes, are not subject to tax, unless received and paid at bank the same as checks.

“41. The exemption granted to co-operative building and loan associations, etc., is confined to the stock and bonds issued by the associations therein mentioned, and therefore does not relieve them from other stamp taxes.

“42. ‘Certificates of any description required by law not otherwise specified in this Act, ten cents.’ The first requirement necessary to subject any given certificate thus generally described to tax is that it shall be one which is required to be given by law, national, State, or municipal. All such are taxable, except those coming within the exemption of section 17, that is to say, those which are given strictly in the exercise of the functions — governmental, taxing, or municipal — of the State or corporation.

“Certificates given by an officer, not for a public or govern-

mental purpose, but for private interests and use, are liable to the tax if they are given in obedience to any law which requires them to be given when called for.

“A certificate of search showing that the dockets or records of a court have been searched, and show either that liens exist or do not exist as to property, or that judgments are recorded or are not recorded, and also certificates of search to ascertain whether or not titles are good, whether taxes have been paid, and other certificates of this character, are not such as are required in the general discharge of governmental functions on the part of the officers giving them, but are such as are needed for private use and private interests, and are, therefore, subject to the tax, as being required by law to be given when called for.

“If the act performed, or the certificate issued by the officer, is in the discharge of an official function necessary in operating the general machinery of the Government, it is exempt.

“43. Certificates of acknowledgment of deeds and mortgages are not required to be stamped. The memorandum on the back of a deed or mortgage, made by the register or recorder, that the instrument has been placed upon record, is not a subject of taxation. It is not a certificate such as is contemplated by the law. It is a brief note on the back of the deed or mortgage citing date of filing and date and place of record.

“44. Certificates of birth, marriage, and death, given in pursuance of the laws of the State requiring the collection and registration of vital statistics as a basis for the administration of public health laws, come within the exemption of section 17. Such certificates, however, when issued to private persons for private use, are subject to the 10-cent stamp tax.

“45. The ordinary notary's *jurat* is not required to be stamped.

“46. A policy does not require a stamp until it is issued, or is offered as an insurance policy, and an insurance company can stamp a policy through its local agents as well as through its general agent.

“Any agent of the company who is charged with the duty of delivering the policy to the policy holder and receiving the premium, would be authorized to affix and cancel the stamp in behalf of the company.

“47. A stamp must be attached to premium notes as well as to policies.

“48. Deeds signed, acknowledged, and fully executed in June do not require stamps, though delivered in July, unless, by State law, registration is necessary to pass title.

"49. A mortgage, no matter what the date, should not be admitted to registration when presented on or after July 1, 1898, unless there is attached and cancelled the proper revenue stamp.

"50. In cases where the consideration in a deed is nominal, the actual value of the property conveyed should govern the amount of the stamp required.

"51. Original lease requires a stamp. No stamp is required on copy executed by the parties at the time of the original lease.

"52. If live stock is sold at an exchange or board of trade, or other similar place, either for present or future delivery, the sale, agreement of sale, or agreement to sell must be evidenced by a bill, memorandum, or agreement to be delivered by the seller to the buyer, and this evidence should have the stamp affixed as required in the Act, viz.: One cent on a \$100, and on each \$100 or fraction thereof, additional, 1 cent.

"53. Where telephone companies have lines extending into more than one collection district, the return may be made to the collector of that district in which the principal business office of the company is located.

"54. Contracts and agreements between subscribers and telephone companies for the placing of a telephone, and payment therefor, are not subject to stamp tax.

"55. Powers of attorney executed on the back of stock certificates used in connection with transfer of shares require to be stamped in addition to the tax on transfer of stock.

"56. Powers of attorney to sell or transfer Government bonds are taxable.

"57. A 10-cent stamp is sufficient upon a proxy for use in voting at an election of officers of an incorporated company, without regard to the number of signatures.

"58. Revenue stamps are not required on the reports of earnings and dividends, and reports of condition made to the Comptroller of the Currency by national banks.

"59. The list of shareholders required by section 5210, Revised Statutes, to be forwarded to the Comptroller of the Currency requires no stamp tax. The paper is not a certificate but a list.

"60. A stamp is not required on returns of national banks of notes in circulation made semiannually to the United States Treasurer.

"61. In regard to the cancellation of internal revenue adhesive stamps, which the law requires to be by writing or stamping the initials of the persons using the same, and the date upon which the stamp shall be attached or used, it is held that the initials and

the year alone will be sufficient. This cancellation may be by writing or imprinting with a hand stamp.

“62. Old stamps issued under repealed Acts cannot be used in lieu of stamps required by the present law.”

In a supplement to Circular No. 503, on August 16, 1898, the Commissioner issued the following additional rulings under Schedule A:—

“63. *Administration, Letters of.*—Letters testamentary or of guardianship do not require stamps. Petitions for appointment of administrators, executors, or guardians require no stamp.

“64. No stamp is required on affidavits.

“65. *Bonds.*—Bonds of brewers, manufacturers of oleomargarine, manufacturers of tobacco, manufacturers of cigars, distiller's annual, distiller's warehousing, transportation and export bonds are required to be stamped. Where these bonds are required by law or regulation to be made in duplicate or triplicate, each must be stamped. Copies of distiller's bonds forwarded to this office for office use need not be stamped.

“66. Where a surety company is surety on these bonds, the tax is one-half of 1 cent on each dollar of premium in addition to the 50-cent tax on the bond. The stamp representing this amount should be placed on the original bond, and on the duplicates and triplicates a memorandum can be made stating that this tax has been paid by stamp attached to the original bond.

“67. A bond filed by order of court to obtain a decree or order for the sale of real estate is a bond given in a legal proceeding, and is exempt from tax.

“68. Bonds given by public officers, such as sheriffs, clerks, registers or recorders of deeds, treasurers of counties, cities, or towns, or other public officers of like character, are required to be stamped.

“69. A bond, which is nothing more or less than a promise to pay so much money, should be treated as a promissory note. This applies to a bond accompanying a mortgage.

“70. Mere agreements to build houses are not taxable, but if bonds are included for the faithful performance of work or contracts, they are held to be subject to tax as bonds.

“71. Bonds issued by guaranty companies in Canada, guarantying the fidelity of employees, of individuals, or corporations in the United States, executed and delivered in Canada, are not taxable, but if they are not valid until countersigned or delivered by the agent in the United States, they should be stamped.

“72. Marriage bond requires a stamp of 50 cents.

“73. Bills of lading for the export of goods, if made out in sets of two, each having equal value, and each being considered an original bill, both should be stamped.

“74. *Broker's Note.*— ‘Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, not otherwise provided for in this Act, ten cents.’

“75. The original note or memorandum of sale is alone subject to the tax of 10 cents when made by a broker or one acting as such, and the tax is payable by said broker or one acting as such; the duplicate or the copy of the original memorandum of sale is not taxed.

“76. A mere memorandum, accompanying an offer to purchase, is subject to the tax only provided the offer is accepted, and should be stamped by the broker on the acceptance of the offer.

“77. A statement of account showing the receipts and disbursements in connection with a sale, and not being the contract of sale, does not require a stamp.

“78. A broker's memorandum of sale of promissory notes (‘notes of hand’) requires the 10-cent stamp.

“79. *Certificates.*— Certificates required by law issued by any Department or officer of the Government at the request of private persons, solely for private use, should be stamped. The stamp should be furnished by the person applying for the instrument and for whose use and benefit the same is issued, and should be affixed before the document is delivered.

“80. Certificates of officers of the United States, given in the discharge of official functions necessary in carrying on the machinery of the Government, are exempt.

“81. Certificates issued by an officer of the State, in the interest of the State, are not liable to tax.

“82. Any documents, the stamping of which would make it necessary that the State should furnish and affix the stamp, are held to be exempt from the stamp tax.

“83. Return of birth, certificate of death, and certificates of the registrar as to the facts declared concerning birth, marriage, and death are none of them held to be subject to the stamp tax imposed upon certificates, in view of the fact that these certificates are given in pursuance of State laws for public purposes.

“84. Certificates issued by the health officer of New York, under State statute, relative to the employment of children, are exempt, being issued in the discharge of a duty connected with the operations of the Government.

“85. A marriage certificate, to be returned to any officer of a State, county, city, or town, to constitute part of a public record, requires no stamp. A marriage certificate issued by the officiating clergyman or magistrate and given to the parties, if required by law, must be stamped at the rate of 10 cents.

“86. A teacher's certificate issued by a county superintendent of public instruction or other officer of State, county, or municipality comes within the exemption provided by section 17 of the Act, and does not require a stamp. These certificates, given under regulations adopted in connection with public schools, are held to be for governmental purposes rather than for private use.

“87. A mercantile license or liquor dealer's license, being a certificate required by the laws of a State or ordinance of a city in the exercise of the functions governmental, taxing, or municipal of the State or corporations, comes within the exemption.

“88. Inspectors and weighers of grain, who give certificates under State laws, are not required to stamp such certificates. They are exempt under section 17.

“89. No stamp is required upon certificates of the sufficiency of sureties upon bonds.

“90. A stamp is required on a certificate of incorporation.

“91. The certificate of a clerk of court to the qualifications of a notary public, or justice of the peace, is held to be a certificate requiring a stamp.

“92. An architect's certificate requires no stamp, unless, by an indorsement, it becomes an order for the payment of money.

“93. *Charter Party.*—The tax under this head is imposed only upon vessels employed in foreign trade or the whale fisheries, and does not apply to vessels employed in domestic trade and trade on the Great Lakes with Canada.

“94. A certificate of acknowledgment to a deed where the consideration of the deed is \$100 or less, or to a mortgage where the consideration is \$1,000 or less, does not require a stamp.

“95. Certificates issued at tax sale or certificates of redemption from tax sale do not require stamps.

“96. Certificate of ‘Proof of loss’ for use of an insurance company, being a statement made as to the facts and circumstances attending a fire, is not a certificate requiring a stamp.

“97. Certificates required by law, which are made by court officers under the direction and authority of the court, and which are necessary to give proper effect to the court proceedings, are exempt.

“98. Court processes, such as summonses, writs of attachment,

subpoenas, warrants, orders of court, etc., are not required to be stamped.

“99. Certificates of protest of every note, bill of exchange, etc., whether protested by a notary public or by any other officer duly authorized by law, must be stamped.

“100. *Checks, Drafts, Orders for the Payment of Money, etc.* — Sight drafts drawn upon or issued by any bank, trust company, or any person or persons, companies or corporations, require a stamp, and, if the acceptance of the draft is accompanied by an order to the bank to pay the same and charge to the account of the drawee, this accompanying order requires, in addition, a 2-cent stamp as ‘an order for the payment of money.’

“101. Where a draft duly stamped is drawn by one bank on another bank, the bank receiving and paying it is not required to affix any stamp thereto.

“102. When a bank charges a customer’s account with the amount of a note, at its maturity, which he has given and which is made payable at that bank, no liability to stamp occurs thereby, unless some written direction is given by the maker of the note to the bank which is, in effect, an order to the bank to pay the amount of the note to the holder out of the funds of the maker of the note. Such an order would require a 2-cent stamp.

“103. Checks drawn by the manager of the clearing house, to settle balances between banks, are subject to stamp as checks.

“104. Orders for the payment of money on sight or on demand are subject to the stamp tax imposed on checks by the third paragraph of Schedule A; but, on orders for the payment of money ‘otherwise than at sight or on demand,’ the stamp tax must be paid as on promissory notes.

“105. An order payable or redeemable in merchandise only (and not in money) does not require the 2-cent stamp.

“106. Rebate checks issued by conductors of the value of 10 cents, being the excess on fare collected on trains, which are redeemable by the company’s agent on presentation, are subject to tax.

“107. Tickets received at a bank and paid the same as checks are regarded as in effect orders for the payment of money.

“108. Orders for the payment of money, drawn by the secretary of an order or beneficiary society on its treasurer, in favor of a third party, require a 2-cent stamp.

“109. The second proviso in the paragraph relating to life insurance in Schedule A, ‘that the provisions of this section shall not apply to any fraternal, beneficiary society, or order,’ relates only to policies of insurance referred to in that paragraph.

"110. A check drawn by the cashier, or some other officer of a bank, upon the bank of which he is such officer, made payable to some person not connected with the bank, requires a stamp.

"111. If a check used is simply in the nature of a memorandum, and not an order for the payment of money, but used within the bank exclusively, as a method of keeping the accounts, it is not necessary to stamp the same as a check.

"112. A check drawn in this country upon a bank is subject to the same tax, whether the bank upon which it is drawn is a domestic bank or a bank located in a foreign country. The distinction between a check and a bill of exchange, either inland or foreign, is well defined.

"113. The conveyance by express companies or other common carriers of bank bills, coin, currency, or money of any kind, imposes an obligation on such common carriers to issue and stamp a bill of lading or receipt for the same, it being held that such property is included within the terms 'any goods accepted for transportation.'

"114. Money orders issued by express companies must be stamped at the rate of 2 cents for each order.

"115. Orders by telegraph or otherwise for the payment or transfer of money abroad issued by express or other companies, or any person or persons, require a stamp at the rate of 4 cents for each \$100. Orders for the same purpose within the United States require a stamp of 2 cents on each order, irrespective of the amount.

"116. *Deeds and Mortgages.* — Deeds and mortgages executed by a sheriff, in compliance with an order of the court, are subject to tax.

"117. If a deed does not grant, assign, transfer, or convey to the purchaser any lands, tenements, or other realty, but only the right to burial, to erect monuments, etc., it does not require a stamp.

"118. A tax is not imposed upon an instrument whereby the title to personal property is conveyed, but a mortgage or pledge of personal property is taxed under Schedule A of the Act.

"119. There is no difference in the rate of taxation between that on a chattel mortgage and on a mortgage of realty.

"120. Where a railroad mortgage is issued for the purpose of securing bonds, which are reserved to be issued only on a mileage basis of road afterwards constructed, whenever the mortgage goes into operation, it should have the stamp affixed. The mortgage cannot go to registration without such stamp, and no recorder or register should receive it for registration without the stamp.

"121. The stamp tax is required to be paid on the assignment

of a mortgage at the same rate as on the original instrument. Where an assignment is made of a mortgage by a separate written instrument, and the mortgage and instrument are deposited with a trustee as security for obligations, the stamp tax must be paid on the memorandum of the pledge of these instruments at the rate fixed by the paragraph relating to mortgage or pledge.

“122. Where a mortgage is deposited with a trustee as security for obligations without any assignment, but accompanied by a power of attorney, authorizing an assignment in the event of a default upon the obligations, the stamp tax is required to be paid on the pledge of the mortgage and also on the power of attorney, but not on the transfer authorized until this transfer is completed.

“123. Mortgages received by a State from persons to whom State lands may be sold are subject to the stamp tax.

“124. Abstracts of title do not require to be stamped.

“125. Deeds of release of mortgages and trust-deeds require to be stamped. If the releases are simply certificates that a lien has been removed from the property, only a 10-cent stamp is necessary; but if they are instruments which reconvey the title to the mortgagor, they must be stamped like other deeds, the consideration being the amount released.

“126. Where local laws authorize entry of satisfaction upon the record, and the mortgage is thus cancelled, such entry does not require a stamp. If the mortgagee, as he has a right to do in some States, makes a power of attorney to the register, or recorder, or other person, for the entry of satisfaction of the mortgage, stamp tax must be paid on this power of attorney.

“127. *Express Receipts.* — The shipment of bundles or packages of newspapers inclosed in one general bundle under a single bill of lading is permitted, and there will be no objection to the distribution of the contents of such a general bundle at the different stations along the line of the railroad.

“128. A shipment bears but one tax, although in completing it transit by rail, boat, or other method of conveyance is required.

“129. The stamp should be affixed to the evidence of receipt and forwarding for each shipment, whether the evidence is in the form of a bill of lading, manifest, receipt, or book, and the common carrier is compelled by law to issue this evidence of receipt and forwarding.

“130. *Insurance Policies.* — A policy of insurance is not valid unless it bears the proper cancelled revenue stamp.

“131. A stamp is required upon every assignment of a policy of insurance at the same rate as that on the original instrument.

"132. Neither the so-called mortgage clause attached to a policy nor its cancellation or release requires additional stamp.

"133. Where a policy of life insurance is assigned as collateral security for a loan, it should be stamped as a pledge according to the amount of debt secured, and not according to face of policy.

"134. Concerning the payment of internal revenue tax on premiums charged on marine, inland, or fire insurance under open policies, see Internal Revenue Circular No. 504.

"135. Reinsurance of insurance policy in other companies is not taxable if original policy is properly stamped, and the reinsurer receives only the proportionate premium on its proportionate liability. If, however, the risk becomes extra hazardous, and there is reinsurance effected, the extra premium paid is taxable.

"136. *Leases.*—Where leases are executed in duplicate, so that both are originals, both are required to be stamped; but if there be but one original, copies thereof are not required to be stamped.

"137. This office holds that where a receipt is given for money received as rent for certain premises and for a certain term, and there are no other recitals in the receipt, it does not require a stamp. If the receipt contains any phrase or clause that can be construed as a contract for the hire, use, or rent as aforesaid, in such cases the receipt becomes something more than a bare receipt, and should be stamped according to its tenor and effect. A mere reference in a rent receipt to an existing lease, duly executed, will not be construed as a new lease.

"138. *Notes.*—Where a note or notes with detached interest-coupon notes are given, each coupon note requires a stamp in addition to the stamp placed on the principal note.

"139. Interest coupons attached to bonds and surrendered as receipts for interest paid do not require a stamp.

"140. No stamp is required upon the transfer by indorsement of promissory notes.

"141. Where notes secured by a deed of trust are used as collateral, the deed of trust and the notes are required to be stamped, not on the basis of their face value, but on the amount for which they are pledged (that is to say, the memorandum of their pledge must be so stamped). This pledge of notes and deed of trust does not require to be stamped again because of renewals of the notes held as collateral if the pledge itself is not renewed.

"142. Promissory notes which have matured and have been allowed to run without suit, are held not to be renewed by the payment of interest. This is looked upon as a 'forbearance' and not a renewal, the holder not relinquishing his right of action for any stated period.

“143. Where judgment notes, so called, contain a clause authorizing any attorney-at-law to confess judgment in favor of the holder of the note, such authorization is held to be a power of attorney, and taxable as such in addition to the tax required on the judgment note as a promissory note.

“144. *Powers of attorney* executed abroad and used in this country require a stamp.

“145. Powers of attorney and proxies for the purpose of voting the stock of building and loan associations, which make loans only to their shareholders, are required to be stamped. Where, upon one power of attorney or proxy, a number of shareholders join in appointing a certain person to vote their stock, one stamp is sufficient.

“146. *Receipts*. — Receipts given by a safe deposit company, in renting boxes in the company's vault, are not subject to tax, nor are receipts given by such companies merely for the safe-keeping of money and valuables.

“147. Receipts given by the patrons of post-office for box rent are not taxable.

“148. *Sales or Transfers of Stock*. — In reckoning the stamp tax on transfer of certificates of stock, the tax is reckoned on the face value. In reckoning this tax, the fact that only part of the face value of shares subscribed for and issued has been paid by the shareholders is not to be taken into consideration.

“149. Where stock is sold at the par value of \$100, and upon which it appears that only \$25 have been paid, the tax is to be reckoned upon the face value of \$100, and not upon the \$25.

“150. Where one certificate represents several shares, the tax of 2 cents on each \$100 or fraction thereof is to be reckoned on the face value of the certificate, and not on the face value of each separate share.

“151. On transfer of one certificate representing 500 shares, \$5 par value, the stamp tax required is 50 cents.

“152. When certificates of stock or other securities are pledged for a loan, the stamp tax is to be reckoned not on the face value of the certificates or securities, but on the amount of money loaned above \$100.

“153. When stock is transferred, for which no certificate has been issued, and the evidence of transfer is shown only by books of the company, the stamps should be placed upon such books. Where the change of ownership is by the transfer of a certificate, and the certificate contains a blank form of assignment on the back which is filled in by the insertion of the name of the person to whom

the stock is transferred, the stamp should be placed upon the certificate.

“154. In case of an agreement to sell, or where the transfer is by the delivery of the certificate, signed in blank, the name of the transferee or vendee to be filled in afterwards, there should be made and delivered by the seller to the buyer a bill or memorandum of sale, to which the stamp should be affixed.

“155. *Sales of Live Stock.* — When a sale is made of live stock at a live-stock exchange or any similar place, or an agreement of sale, or an agreement to sell entered into, the seller must give to the buyer a bill, or memorandum, or other evidence of such sale, agreement of sale, or agreement to sell, to which must be affixed the stamp required, viz., 1 cent for each \$100 in value of such sale, agreement of sale or agreement to sell, and 1 cent for each additional \$100 or fractional part thereof.

“156. *Telegraphic messages* sent by the Associated Press over their own private lines to different newspapers are not required to be stamped.

“When one uses a leased Western Union telegraph wire, for which he pays a stipulated annual rental, and has the exclusive use, and for which he employs his own operator, stamp tax is not required to be paid by him on messages sent by him over this wire relating to his own private business.

“157. If the sender of a dispatch is a Government or State officer in the discharge of a duty in carrying out governmental functions required by law in operating the machinery of the Government, the dispatch is exempt; but if the act is simply that which the officer does individually in the interest of a private person or outside party to serve such private person or outside party individually, then the dispatch must be stamped.

“158. The payment of tax on messages transmitted by a telegraph company, and subsequently received and transmitted by a telephone company, does not exempt the last-named company from the payment of tax on the message so transmitted.

“159. *Warehouse Receipts.* — Stamps should be affixed to warehouse receipts for goods, merchandise, or property held on storage in public or private warehouses, by the warehouseman.

“160. If the actual grower of tobacco, which is an agricultural product, deposits the same in a warehouse in the regular course of trade for sale and takes a warehouse receipt, this receipt is exempt from the stamp tax when it is issued, and it is not required to be stamped at any time after its issuance (if the tobacco which it represents remains in warehouse as it was originally deposited by the

grower), although the same may be transferred as a negotiable instrument and presented to the warehouseman by other than the original holder.

"161. Where tobacco, or the warehouse receipt therefor, is sold 'at any exchange or board of trade, or other similar place,' a memorandum of such sale must be made by the seller, and the stamp affixed thereto and cancelled.

"162. Where a warehouse receipt is sold by a broker at his own office or elsewhere than at a place of exchange, or other place of public sale, the 10-cent stamp must be affixed to the memorandum of this transaction under the paragraph relating to broker's contract.

"163. Any receipt or memorandum given by a warehouseman or any signing by a warehouseman of any express company's book or other receipt evidencing the fact that goods have been placed on storage is such a receipt requiring a stamp tax of 25 cents, whether the same is negotiable or non-negotiable.

"164. A warehouse receipt which includes also an insurance against fire should be stamped also as an insurance policy according to the premium charged.

"165. Compress receipts for cotton are not taxable as warehouse receipts if they do not embrace any contract, express or implied, for storage, and if the cotton is shipped away as soon as the compress is made.

"166. In regard to who shall pay for stamps required on documents, this office cannot dictate. It is the duty of the person, firm, or corporation issuing the instrument to see that it is duly stamped, and a penalty is provided for neglect in so doing, and the inference is drawn that the person, firm, or corporation issuing the instrument shall pay for the stamp required.

"167. Proprietary stamps cannot be used on documents."

To the Attorney-General of Massachusetts has recently been submitted, by one of the State officials, the question whether certificates or instruments issued officially must be stamped, and by whom. He has ruled that certificates issued by clerks of courts should be stamped under the Act of 1898, and that the stamps may be affixed either by the party who issues the instrument, or by him for whose benefit it is issued. The stamps are to be paid for by the person for whose use the paper is issued, and as it is the duty of the officer issuing to see that the document is duly stamped, he may lawfully require the person for whose benefit it is issued to pay for the necessary stamps. As a matter of convenience such officers should have on hand a supply of stamps, which, of course, in each case must be paid for by the person for whose benefit the paper is

issued. "It is obvious that with certain exceptions, not now necessary to consider, Congress is indifferent as to who shall pay the tax. It is not a tax upon any class of individuals, but upon transactions. It is well settled, however, that in the case of certificates issued by any officer of the State, for the benefit or use of any person or corporation excepting the State, only the person or corporation for whose use or benefit the certificate is issued, can be compelled to pay the tax chargeable by law. Congress has no power to impose a tax in any form upon the States as sovereign bodies. The same is true as to municipal corporations." (a) In another opinion recently given to the Secretary of the Commonwealth, the same officer rules that certificates of receipts and expenditures under the Corrupt Practices Act and the Lobby Act, certificates to accompany labels under the Trade Mark Act, and certificates of the condition of corporations should be recorded by the Secretary, whether the proper stamps have been affixed or not. As to whether the persons filing such papers should stamp them the Attorney-General refuses to render an opinion, they not being officials of the government, and so not entitled to the learned rulings of this high officer. (b) It would seem that, upon the foregoing principles and sections imposing penalties, an omission to stamp such papers by the persons filing them may prove to be a serious matter.

SCHEDULE B.

In connection with Schedule B, and in determining what a package is, it has been held that where matches were put up in boxes, each having two compartments or drawers, and each compartment contained less than fifty matches, the entire box should be regarded as one parcel or package. (c)

Circular No. 501 of July 7, 1898, is as follows:—

"The liability of medicinal preparations to stamp tax is to be determined wholly by reference to the first paragraph of Schedule B, as construed and interpreted by the proviso of section 20 of the Act of June 13, 1898.

"The first absolute prerequisite to the imposition of this tax is that the article should be medicinal in its character. It is to be

(a) This opinion was given in July, 1898, but is not published.

(b) This opinion was given in July, 1898, but is not published.

(c) *United States v. Goldback*, 1 Hughes, 529; 23 Int. Rev. Rec. 129. See 24 Id. 381; 3 Cin. L. Bul. 1029.

observed, however, that while some articles and substances are used exclusively, or nearly so, in *materia medica*, other articles and substances which are not so exclusively used, may become medicinal articles, subject to tax by being held out and specially advertised as remedies or specifics for any disease affecting the human or animal body. In this way certain articles usually regarded in the class of foods or beverages may be placed in the category of taxable medicinal preparations. Soaps may also be placed in the category of taxable articles by being advertised as remedies or cosmetics.

“There is a common error prevailing in the community to the effect that the tax on medicinal preparations is a tax exclusively on proprietary or patent medicines, or those put up under some trade-mark. Nothing could be further from the truth. The last sentence of the proviso to section 20 is held by this office to be a legislative construction and interpretation of Schedule B, and it brings within the purview of the law a vast variety of medicinal preparations which are not proprietary, patented, or trade-marked.”

“The last clause of section 20, Act of June 13, 1898, is as follows:—

“‘The stamp taxes provided for in Schedule B of this Act shall apply to all medicinal articles compounded by any formula, published or unpublished, which are put up in style or manner similar to that of patent, trade-mark, or proprietary medicine in general, or which are advertised on the package or otherwise as remedies or specifics for any ailment, or as having any special claim to merit, or to any peculiar advantage in mode of preparation, quality, use, or effect.’

“This is undoubtedly entitled to peculiar weight as a legislative interpretation of that part of Schedule B which relates to medicinal articles.

“This office construes said clause as follows:—

“‘Any medicinal article which is compounded by any formula, published or unpublished,’ will be held to be taxable under Schedule B, Act of June 13, 1898, when it is —

“(1) ‘Put up in style or manner similar to that of patent, trade-mark, or proprietary medicine in general, or,’

“(2) ‘Advertised on the package or otherwise as (a) remedies or specifics for any ailment, (b) as having any special claim to merit, as (c) having any peculiar advantage in mode of preparation, quality, use, or effect.’

“Under 1, any medicine will be held to be put up in ‘style or manner similar,’ etc., when the package, carton, wrapper, label,

bottle, or container resembles in one or more particulars any make or brand of 'patent, trade-mark, or proprietary medicine in general.'

"For example, the use of a trade-mark upon medicine makes it taxable. Also, the use of the maker's name or any other person's name in the possessive form immediately before the name of the medicine, as 'Smith's Pills,' or the use of any name immediately following the name of the medicine. This shall not be construed, however, to prohibit the name of the physician who was the author of the formula immediately following the name of the medicine. Nor shall it be construed to prohibit the name of the manufacturer being blown in the bottle, or printed inconspicuously on the label or wrapper.

"Under 2 (a) any medicinal article will be held to be 'advertised on the package or otherwise as remedies or specifics for any ailment' if there is any statement whatever upon any part of the article of any 'disease or affection of the human or animal body' for which the contents should or might be used. This shall not be construed, however, as prohibiting the printing of the formula and the dose on the label, or words indicating the therapeutic action of the medicine in purely technical language not in common use.

"Under 2 (b) and (c) any medicinal article will be held to be advertised on the package or otherwise as having any special claim to merit, or to any peculiar advantage in the mode of preparation, quality, use, or effect, when any description of it either on the package or otherwise includes any statement to the effect that it has a special or peculiar merit or value over other like articles, or other articles of the same class. Or when it has any word, phrase, or sentence, either in the title, or formula, or otherwise, which indicates its superior merit over articles of its class.

"For example, 'Tasteless Quinine,' 'Improved Cod Liver Oil,' but this shall not be construed to exclude the words 'pure,' 'chemically pure,' etc., which have for their object the definition of the grade of the article, or the words 'granulated,' 'crystallized,' 'pressed,' 'resublimed,' etc., intended to indicate the manner of manufacture, and which indicate only well-known and established methods of manufacture.

"RECAPITULATION.

"1. All medicinal *proprietary* articles and preparations must be stamped.

"2. All medicinal *patent* articles and preparations must be stamped.

"3. All medicinal *trade-mark* articles and preparations must be stamped.

"4. All medicinal articles compounded by any formula published or unpublished, which are put up in a style or manner similar to that of patent, trade-mark, or proprietary medicines in general, or which are advertised on the package or otherwise as remedies or specifics for any ailment, or as having any special claim to merit, or to any peculiar advantage in mode of preparation, quality, use, or effect, must be stamped.

"5. All medicinal articles or compositions whatsoever which if prepared by any formula published or unpublished, or held out or recommended to the public by the makers or vendors or proprietors thereof as proprietary articles or preparations, or as remedies or specifics for any disease or diseases or affection whatever affecting the human or animal body, must be stamped.

"BULK PACKAGES.

"Articles subject to stamp tax under Schedule B, Act of June 13, 1898, are equally liable to stamp tax when sold in what are termed bulk packages, as when sold in retail packages, and the value of the stamp or stamps to be affixed must correspond with and be proportionate to the price of a single retail package.

"This ruling specially applies to bay rum and cologne waters, vaseline and petrolatum, which are taxable under the head of perfumery and cosmetics, and to bitters and other medicines when sold in kegs, barrels, etc.

"Dealers may retail directly to the consumer from such bulk packages as have been properly stamped by the manufacturer or importer, drawing from the same in quantities to suit their customers without any additional stamping, but the stamps attached to such bulk packages will only protect the original contents.

"If bulk packages are broken up by the dealer drawing off the contents into smaller vessels to be put upon his shelves, or otherwise kept for future sales, the contents so drawn off thereby cease to be identified with the stamped package in which they were originally put up by the manufacturer or sold by the importer, and such contents so put up become liable to seizure if stamps are not affixed to them.

"The contents of bulk packages liable to tax under Schedule B, which were in the hands of retailers on the 1st day of July, 1898, and therefore unstamped, must be stamped when sold at retail from said packages proportionately to the retail price of the whole package.

"SAMPLES.

"Samples of medicinal preparations and perfumery and cosmetics taxable under Schedule B, may be removed from the place of manufacture for free distribution without stamp or payment of tax.

"Every sample so removed, however, must have legibly printed thereon the following notice:—

"'This is a free sample removed from the factory for gratuitous distribution. Any person selling or exposing for sale this sample at any time will be liable to all the pains and penalties of the law denounced against persons selling or exposing for sale unstamped articles taxable under Schedule B, Act of June 13, 1898.'

"ARTICLES ON HAND JULY 1, 1898.

"The statute governing this matter is as follows:—

"'That all articles and preparations provided for in this schedule which are in the hands of manufacturers or wholesale or retail dealers on the first day of July, 1898, shall be subject to the payment of the stamp taxes herein provided for; but it shall be deemed a compliance with this Act as to such articles on hand in the hands of wholesale or retail dealers as aforesaid, who are not the manufacturers thereof, to affix the proper adhesive tax stamp at the time the packet, box, bottle, pot, or phial, or other inclosure with its contents is sold at retail. (Schedule B, Act of June 13, 1898.)'

"Under this provision it is held that articles liable to tax in the hands of a retail dealer who is not the manufacturer thereof, July 1, 1898, must be stamped by such retail dealer when he sells them at retail. In stamping such articles the retail price fixed by the manufacturer must be adhered to by the retail dealer.

"Articles liable to tax in the hands of wholesale dealers who are not the manufacturers thereof on the 1st day of July, 1898, may be sold by such wholesale dealer to other wholesale dealers or to retail dealers without stamping the same, the obligation to stamp being limited to sales at retail.

"All articles in the hands of manufacturers on said date liable to tax must be stamped before removal from the place of manufacture.

"Dealers in stamping articles on hand July 1, 1898, when sold at retail, must adhere to the retail price as fixed by the manufacturer and stamp the article accordingly, and not according to some 'cut price.'

"RETAIL PRICE.

"The manufacturer or importer must fix the retail price or value of the taxable articles under Schedule B manufactured or

imported by him, and affix the corresponding adhesive stamps to the same before removal from the place of manufacture or importation. This duty is imposed on the manufacturer or importer by law. It is believed that no one is so competent as he to determine the retail price or value of his products or importations, and he will be held strictly responsible for a due compliance with the statute.

"This retail price or value is a price such as a single package or other small quantity would be sold at to consumers at the place of manufacture. If the manufacturer fixes the retail price in good faith according to this rule, he need apprehend no complaint if at different times and in different places the article is retailed for a greater or less sum than denoted by the stamps affixed thereto.

"EXPORT — ARTICLES EXPORTED WITHOUT STAMPING, AND DRAWBACK ON STAMPED ARTICLES EXPORTED.

"Articles liable to tax under Schedule B, when intended for exportation, may be manufactured and sold or removed without having the stamps affixed thereto, and without being charged with tax as aforesaid by giving bonds and complying with regulations to be provided by the Commissioner of Internal Revenue, and approved by the Secretary of the Treasury. See proviso to section 22, Act of June 13, 1898. An allowance of drawback on articles mentioned in Schedule B, which have already been stamped and afterwards exported, is allowed by section 26, Act of June 13, 1898, which reads as follows:—

" 'SECT. 26. There shall be an allowance of drawback on articles mentioned in Schedule B of this Act on which any internal revenue tax shall have been paid, equal in amount to the stamp tax paid thereon, and no more, when exported, to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal taxes not otherwise appropriated: *Provided*, That no allowance of drawback shall be made for any such articles exported prior to July first, eighteen hundred and ninety-eight. The evidence that any such tax has been paid as aforesaid shall be furnished to the satisfaction of the Commissioner of Internal Revenue by the person claiming the allowance of drawback, and the amount shall be ascertained under such regulations as shall be prescribed from time to time by said Commissioner, with the approval of the Secretary of the Treasury.'

"Regulations made in pursuance of the foregoing provisions

entitled Series 7, No. 24, are now ready and will be furnished to parties interested on application to collectors of internal revenue.

“IMPORTED ARTICLES.

“All medicinal articles and perfumeries and cosmetics imported from foreign countries are liable to the stamp tax as similar articles of domestic manufacture, in addition to the import duty on the same, and the stamps must be affixed by the owner or importer before the same are sold or offered for sale, and affixed in the same manner upon every packet, box, bottle, phial, or other inclosure containing the same.

“No exception is made in this respect for articles sold in original and unbroken packages in which the bottles or other inclosures were packed by the manufacturer before the importation. All such must be unpacked for the purpose of stamping the primary package. Importers may, however, supply manufacturers abroad with internal revenue stamps to be there affixed and cancelled, to the respective articles, before shipment.

“COLLECTORS TO MAKE EXAMINATIONS.

“Collectors and revenue agents will make examinations of the retail drug stores, pharmacies, and other places in their districts, to ascertain if the medicinal articles and other articles mentioned in Schedule B, contained in stock and offered for sale, are stamped according to law wherever liable under the foregoing instructions.

“In cases where the officer is not able to determine liability to tax, or where there is reasonable doubt, samples should be sent to this office for decision. Samples sent for this purpose should include all wrappings, circulars, advertisements, etc., pertaining to the sample in question, and should be accompanied by a letter of transmission giving full information concerning the same.”

“SECT. 26. There shall be an allowance of drawback on articles mentioned in Schedule B of this Act on which any internal-revenue tax shall have been paid, equal in amount to the stamp tax paid thereon, and no more, when exported, to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal

taxes not otherwise appropriated: *Provided*, That no allowance of drawback shall be made for any such articles exported prior to July first, eighteen hundred and ninety-eight. The evidence that any such tax has been paid as aforesaid shall be furnished to the satisfaction of the Commissioner of Internal Revenue by the person claiming the allowance of drawback, and the amount shall be ascertained under such regulations as shall be prescribed from time to time by said Commissioner, with the approval of the Secretary of the Treasury."

"Excise Taxes on Persons, Firms, Companies, and Corporations engaged in Refining Petroleum and Sugar. —

SECT. 27. That every person, firm, corporation, or company carrying on or doing the business of refining petroleum, or refining sugar, or owning or controlling any pipe line for transporting oil or other products, whose gross annual receipts exceed two hundred and fifty thousand dollars, shall be subject to pay annually a special excise tax equivalent to one-quarter of one per centum on the gross amount of all receipts of such persons, firms, corporations, and companies in their respective business in excess of said sum of two hundred and fifty thousand dollars.

"And a true and accurate return of the amount of gross receipts as aforesaid shall be made and rendered monthly by each of such associations, corporations, companies, or persons to the collector of the district in which any such association, corporation, or company may be located, or in which such person has his place of business. Such return shall be verified under oath by the person making the same, or, in case of corporations, by the president or chief officer thereof. Any person or officer failing or refusing to make return as

aforesaid, or who shall make a false or fraudulent return, shall be liable to a penalty of not less than one thousand dollars and not exceeding ten thousand dollars for each failure or refusal to make return as aforesaid and for each and every false or fraudulent return." (a)

This section was principally taken from the Acts of June 30, 1864, ch. 173, § 79 ; and of March 3, 1865, ch. 78, § 8 (13 Stats. 484).

"SECT. 28. That from and after the first day of July, eighteen hundred and ninety-eight, a stamp tax of one cent shall be levied and collected on every seat sold in a palace or parlor car and on every berth sold in a sleeping car, the stamp to be affixed to the ticket and paid by the company issuing the same."

"To Collectors and Internal Revenue Agents:—

"Hereafter in making examinations of the files of telegraph companies and sleeping-car companies to ascertain if the law has been complied with with reference to stamping telegrams and sleeping-car tickets, you are advised that such examination should be restricted to simply ascertaining if the documents referred to have been properly stamped.

"These instructions are particularly applicable to telegrams where neither the public good nor the safety of the revenues requires that they should be delivered to the examining officer. In such cases it is not expected that all the telegrams sent by the company from any one point should be examined. Such examinations will be considered ample if sufficient telegrams of any date called for by the examining officer are passed through the hands of a representative of the company in the presence of the examining officer in such a manner as to enable him to see that they are properly stamped. A knowledge of the contents of the telegrams is not essential to the examining officer." (b)

(a) Compare provisions concerning the returns to be made by manufacturers of tobacco and cigars, *supra*, pp. 22, 26. See general provisions regarding special tax payers, *supra*, p. 7 *et seq.*

(b) Circular No. 506 of July 28, 1898.

“Legacies and Distributive Shares of Personal Property. — SECT. 29. That any person or persons having in charge or trust, as administrators, executors, or trustees, any legacies or distributive shares arising from personal property, where the whole amount of such personal property as aforesaid shall exceed the sum of ten thousand dollars in actual value, passing, after the passage of this Act, from any person possessed of such property, either by will or by the intestate laws of any State or Territory, or any personal property or interest therein, transferred by deed, grant, bargain, sale, or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or bargainer, to any person or persons, or to any body or bodies, politic or corporate, in trust or otherwise, shall be, and hereby are, made subject to a duty or tax, to be paid to the United States, as follows — that is to say: Where the whole amount of said personal property shall exceed in value ten thousand and shall not exceed in value the sum of twenty-five thousand dollars the tax shall be :

“First. Where the person or persons entitled to any beneficial interest in such property shall be the lineal issue or lineal ancestor, brother, or sister to the person who died possessed of such property, as aforesaid, at the rate of seventy-five cents for each and every hundred dollars of the clear value of such interest in such property.

“Second. Where the person or persons entitled to any beneficial interest in such property shall be the descendant of a brother or sister of the person who died possessed, as aforesaid, at the rate of one dollar and fifty cents for each and every hundred dollars of the clear value of such interest.

“Third. Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother, of the person who died possessed as aforesaid, at the rate of three dollars for each and every hundred dollars of the clear value of such interest.

“Fourth. Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother, of the person who died possessed as aforesaid, at the rate of four dollars for each and every hundred dollars of the clear value of such interest.

“Fifth. Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died possessed, as aforesaid, or shall be a body politic or corporate, at the rate of five dollars for each and every hundred dollars of the clear value of such interest: *Provided*, That all legacies or property passing by will, or by the laws of any State or Territory, to husband or wife of the person died possessed, as aforesaid, shall be exempt from tax or duty.

Where the amount or value of said property shall exceed the sum of twenty-five thousand dollars, but shall not exceed the sum or value of one hundred thousand dollars, the rates of duty or tax above set forth shall be multiplied by one and one-half; and where the amount or value of said property shall exceed the sum of one hundred thousand dollars, but shall not exceed the sum of five hundred thousand dollars, such rates of duty

shall be multiplied by two; and where the amount or value of said property shall exceed the sum of five hundred thousand dollars, but shall not exceed the sum of one million dollars, such rates of duty shall be multiplied by two and one-half; and where the amount or value of said property shall exceed the sum of one million dollars, such rates of duty shall be multiplied by three.

This section was principally taken from the Acts of July 1, 1862 (12 Stats. 485); of June 30, 1864, ch. 173, § 125 (13 Stats. 286); of March 5, 1865 (13 Stats. 481); of July 13, 1866, ch. 184, § 9 (14 Stats. 140); of July 14, 1870, ch. 255, §§ 3, 27 (16 Stats. 256, 269); and of Dec. 24, 1872, ch. 13, § 2 (17 Stats. 402).

"Succession tax" on every "devolution of title to real estate" is not a "direct tax" within the meaning of the constitution, but an "import" or "excise," and is constitutionally valid. "Successor" is employed in the Act as the correlative of predecessor. The subject-matter of the assessment is the devolution of the estate, or the right to become beneficially entitled to the same or the income thereof in possession or expectancy. Such a tax is neither a tax on land nor a capitation exaction. (a) A tax on collateral inheritances is not a tax on property, but on the privilege of succeeding to the inheritance. (b) An inheritance may be taxed as a privilege, although the property may also be taxed. (c)

Such duties are a charge upon the income of the *cestui que trust*, under a will made before the passage of the statute which bequeaths a fund to trustees "to receive and collect the income and

(a) *Scholey v. Rew*, 23 Wall. 331. Other authorities on legacy and succession taxes are *United States v. New York Life Ins. & Trust Co.*, 9 Ben. 413; *Hellman v. United States*, 15 Blatch. 13; *United States v. Watts*, 1 Bond, 580; *United States v. Hazard*, 14 Phila. 486; 8 F. R. 380; *United States v. Townsend*, 14 Phila. 493; 8 F. R. 306; *United States v. Brice*, Id. 487; 8 F. R. 381; *May v. Slack*, 16 Int. Rev. Rec. 134; *United States v. Leverich*, 9 F. R. 586; *United States v. Hunnewell*, 13 Id. 617; *Mason v. Sargent*, 104 U. S. 689, reversing 23 Int. Rev. Rec. 155; *Sturges v. United States*, 117 U. S. 363; *United States v. Rankin*, 8 F. R. 872; *United States v. Morris*, 27 Id. 341; *United States v. Kelly*, 28 Id. 845; *United States v. Truck*, Id. 846; *Clapp v. Mason*, 94 U. S. 589; *United States v. Hart*, 4 F. R. 292.

(b) *Eyre v. Jacob*, 14 Gratt. 422. See *Williams' Case*, 3 Bland Ch. 186; *Tyson v. State*, 28 Md. 577.

(c) *Eyre v. Jacob*, *supra*.

produce thereof, and after deducting all needful and proper costs, etc., to pay the residue of said income" to the beneficiary. (a) In a case brought under the provisions of §§ 126-137 of the Act of June 30, 1864, (b) it was held that the person liable to pay a tax on a succession is the person beneficially interested in the property, and not the trustee or executor in whom the legal title is vested, or to whom a power in trust is given for the benefit of the beneficiary. (c) "The Act of 1862, (d) so far as it imposes a tax *in personam*, imposes it on the executor or trustee, and not on the legatee or *cestuis que trust*, and no suit *in personam* can be maintained against the legatee." (e)

No legacy duty is collectible, under the Act of June 30, 1864, on a legacy which did not become payable until after the repeal of the law imposing such duties. (f)

A legacy payable in cash from a fund to be raised by a sale of lands, is not subject to a tax imposed upon legacies arising from personal property. (g)

Where moneys were received by claimants under a will by virtue of a compromise contract with the executor, it was held that this is not a legacy or a distributive share, such as is liable to the tax, under the Internal Revenue Laws. (h)

"In Great Britain it has been determined, upon much consideration by the highest authority, that an Act of Parliament imposing a legacy duty does not apply to property of a person whose domicile at the time of his death is not within the realm." (i) "In the courts of North Carolina and of Missouri, on the other hand, it has been held that all personal property within the State is liable to such a duty, whether the owner's domicile at the time of his death is within or without the State." (j) "Congress, in the Act of 1864, has made its intention clear that the legacy duty should be

(a) *Sohier v. Eldridge*, 103 Mass. 345.

(b) 13 Stats. 287.

(c) *United States v. Tappan*, 10 Ben. 284.

(d) 12 Stats. 485.

(e) *United States v. Allen*, 9 Ben. 154.

(f) *Mason v. Sargent*, 104 U. S. 689; *United States v. Hazard*, 8 F. R. 380; *United States v. N. Y. Life Ins. & Trust Co.*, 9 Ben. 413. On the construction and effect of the Act of June 30, 1864, ch. 255, §§ 124, 125, imposing a succession tax and legacy duty, see *United States v. Hunnewell*, 13 F. R. 617, and note, p. 618.

(g) *United States v. Watts*, 1 Bond, 580.

(h) *Page v. Rives*, 1 Hughes, 297.

(i) Mr. Justice Gray, in *United States v. Hunnewell*, 13 F. R. 617; *Thomson v. Advocate-General*, 12 Clark & F. 1.

(j) Mr. Justice Gray, in *United States v. Hunnewell*, 13 F. R. 617; *Alvany v. Powell*, 2 Jones Eq. 51; *State v. St. Louis County Court*, 47 Mo. 594.

payable on the estates of those persons only whose domicile at the time of their death is within the United States. Section 124 imposes a duty on legacies or distributive shares arising from personal property 'passing from any person possessed of such property, either by will or by the intestate laws of any State or Territory.' (a) It is to be noticed that the statutory words quoted are followed in section 29 of the present Act.

The Act of Congress (b) does not make the duty payable when "the person possessed of such property" dies testate, if it would not be payable in case such person died intestate; and if a woman dies intestate, her heir takes a distributive share by the intestate laws of the place of her domicile at the time of her death. (c)

(a) Mr. Justice Gray, in *United States v. Hunnewell*, 13 F. R. 617.

(b) Of June 30, 1864, ch. 255.

(c) *United States v. Hunnewell*, 13 F. R. 617.

On devises and remainders over, see *Mason v. Clapp*, 1 Holmes, 417; s. c. 21 Int. Rev. Rec. 268; *May v. Slack*, 16 Id. 134; *Blake v. McCartney*, 4 Cliff. 101; s. c. 10 Int. Rev. Rec. 131; *Wright v. Blakeslee*, 101 U. S. 174; *Clapp v. Mason*, 94 U. S. 589; s. c. 23 Int. Rev. Rec. 144; *Brune v. Smith*, 13 Int. Rev. Rec. 54; *United States v. N. Y. Life & T. Co.*, 9 Ben. 413; *Galbraith v. Commonwealth*, 14 Penn. St. 258.

On devises in trust, see *Hathaway v. Fish*, 13 Allen, 267; *Duvall v. English Evang. L. Church*, 53 N. Y. 500; *Commonwealth v. Williams*, 13 Penn. St. 29; *Commonwealth's Appeal*, 34 Id. 204.

On legacy taxes, successions, liability, see *Alvany v. Powell*, 2 Jones, Eq. 51; *Page v. Rives*, 1 Hughes, 297; *Barringer v. Cowan*, 2 Jones, Eq. 436; *Mager v. Grima*, 8 How. 490; *United States v. Watts*, 1 Bond, 580; *Hellman v. United States*, 15 Blatch. 13; *Clapp v. Mason*, 94 U. S. 589; s. c. 23 Int. Rev. Rec. 144; *Mason v. Sargent*, 104 U. S. 689; s. c. 23 Int. Rev. Rec. 155; *May v. Slack*, 16 Int. Rev. Rec. 134; *United States v. Tappan*, 10 Ben. 284; *Wright v. Blakeslee*, 13 Blatch. 421; *Scholey v. Rew*, 23 Wall. 331; *Wilhelmi v. Wade*, 65 Mo. 39; *Ransom v. United States*, 8 Reporter, 164; *Tharp v. Commonwealth*, 58 Penn. St. 500; *McDowell v. Addams*, 45 Id. 430; *Commonwealth v. Nancrede*, 32 Id. 389; *United States v. New York Life Ins. & T. Co.*, 9 Ben. 413; s. c. 24 Int. Rev. Rec. 118; *Eyre v. Jacob*, 14 Grat. 422. See *Williams' Case*, 3 Bland, Ch. 186; *Tyson v. State*, 28 Md. 577.

For the course of decisions determining whether a legacy or succession tax was chargeable on the property in interest is a question under the peculiar circumstances of the particular case, see *Scholey v. Rew*, 23 Wall. 331; *Clapp v. Mason*, 94 U. S. 589; *Wright v. Blakeslee*, 101 U. S. 174; 13 Blatch. 421; *United States v. N. Y. Life Ins. & Trust Co.*, 9 Ben. 413; 24 Int. Rev. Rec. 118; *Mason v. Clapp*, 1 Holmes, 417; 16 Int. Rev. Rec. 134; *Blake v. McCartney*, 4 Cliff. 101; *Hellman v. United States*, 15 Blatch. 13; *Ransom v. United States*, 8 Rep. 164; *United States v. Leverich*, 9 F. R. 586; *United States v. Townsend*, 8 F. R. 306; *Brune v. Smith*, 13 Int. Rev. Rec. 54; *United States v. Hart*, 4 F. R. 292; *United States v. Banks*, 17 F. R. 322; *United States v. Rankin*, 8 F. R. 872.

“SECT. 30. That the tax or duty aforesaid shall be a lien and charge upon the property of every person who may die as aforesaid for twenty years, or until the same shall, within that period, be fully paid to and discharged by the United States; and every executor, administrator, or trustee, before payment and distribution to the legatees, or any parties entitled to beneficial interest therein, shall pay to the collector or deputy collector of the district of which the deceased person was a resident the amount of the duty or tax assessed upon such legacy or distributive share, and shall also make and render to the said collector or deputy collector a schedule, list, or statement, in duplicate, of the amount of such legacy or distributive share, together with the amount of duty which has accrued, or shall accrue, thereon, verified by his oath or affirmation, to be administered and certified thereon by some magistrate or officer having lawful power to administer such oaths, in such form or manner as may be prescribed by the Commissioner of Internal Revenue, which schedule, list, or statement shall contain the names of each and every person entitled to any beneficial interest therein, together with the clear value of such interest, the duplicate of which schedule, list, or statement shall be by him immediately delivered, and the tax thereon paid to such collector; and upon such payment and delivery of such schedule, list, or statement said collector or deputy collector shall grant to such person paying such duty or tax a receipt or receipts for the same in duplicate, which shall be prepared as hereinafter provided. Such receipt or receipts, duly signed and delivered by such collector or deputy collector, shall be sufficient evidence to entitle such

executor, administrator, or trustee to be credited and allowed such payment by every tribunal which, by the laws of any State or Territory, is, or may be, empowered to decide upon and settle the accounts of executors and administrators. And in case such executor, administrator, or trustee shall refuse or neglect to pay the aforesaid duty or tax to the collector or deputy collector, as aforesaid, within the time hereinbefore provided, or shall neglect or refuse to deliver to said collector or deputy collector the duplicate of the schedule, list, or statement of such legacies, property, or personal estate, under oath, as aforesaid, or shall neglect or refuse to deliver the schedule, list, or statement of such legacies, property, or personal estate, under oath, as aforesaid, or shall deliver to said collector or deputy collector a false schedule or statement of such legacies, property, or personal estate, or give the names and relationship of the persons entitled to beneficial interests therein untruly, or shall not truly and correctly set forth and state therein the clear value of such beneficial interest, or where no administration upon such property or personal estate shall have been granted or allowed under existing laws, the collector or deputy collector shall make out such lists and valuation as in other cases of neglect or refusal, and shall assess the duty thereon; and the collector shall commence appropriate proceedings before any court of the United States, in the name of the United States, against such person or persons as may have the actual or constructive custody or possession of such property or personal estate, or any part thereof, and shall subject such property or personal estate, or any portion of the same, to be sold upon the

judgment or decree of such court, and from the proceeds of such sale the amount of such tax or duty, together with all costs and expenses of every description to be allowed by such court, shall be first paid, and the balance, if any, deposited according to the order of such court, to be paid under its direction to such person or persons as shall establish title to the same. The deed or deeds, or any proper conveyance of such property or personal estate, or any portion thereof, so sold under such judgment or decree, executed by the officer lawfully charged with carrying the same into effect, shall vest in the purchaser thereof all the title of the delinquent to the property or personal estate sold under and by virtue of such judgment or decree, and shall release every other portion of such property or personal estate from the lien or charge thereon created by this Act. And every person or persons who shall have in his possession, charge, or custody any record, file, or paper containing, or supposed to contain, any information concerning such property or personal estate, as aforesaid, passing from any person who may die, as aforesaid, shall exhibit the same at the request of the collector or deputy collector of the district, and to any law officer of the United States, in the performance of his duty under this Act, his deputy or agent, who may desire to examine the same. And if any such person, having in his possession, charge, or custody any such records, files, or papers, shall refuse or neglect to exhibit the same on request, as aforesaid, he shall forfeit and pay the sum of five hundred dollars: *Provided*, That in all legal controversies where such deed or title shall be the subject of judicial investigation, the recital in said

deed shall be *prima facie* evidence of its truth, and that the requirements of the law had been complied with by the officers of the Government.”

This section is taken principally from the Act of June 30, 1864, ch. 173, § 125 (13 Stats. 286).

“In pursuance of the requirements of the above Act and by virtue of the authority conferred thereby, the following rules and regulations are hereby prescribed:—

“The tax on legacies and distributive shares of personal property accrues where passing from any person dying on or after June 13, 1898.

“The law does not apply to estates now in process of settlement, when the grantor died before June 13, 1898.

“The tax must be paid on a legacy before its distribution to the legatees.

“No tax is due unless the whole amount of said personal property passing from the decedent exceeds in value ten thousand dollars.

“The fact that certain distributive shares arising from the personal property of an estate are represented by bonds of the United States does not constitute ground for holding such shares to be exempt from tax on legacies and distributive shares under the internal-revenue laws. (24 Int. Rev. Rec. 33.)

“In all cases where legacy taxes are due, the executors, administrators, or trustee should be immediately notified to make return on Form No. 419.

“These returns should be made in duplicate. One copy should be filed in the office of the collector and the other should be transmitted to this office.

“Upon payment of the tax the collector or deputy collector will give a receipt or receipts for the same in duplicate. This receipt may be given on Form No. 1.

“If it is found that the returns are apparently correct, the taxes due should be reported on Form 23 for assessment.

“In transmitting returns to this office the collector will make a list or schedule thereof on Form 421.

“If the party whose duty it is to make a legacy-return neglects or refuses to do so, the collector should make a statement of tax due on Form No. 419 and send it to this office.

“If the collector finds it necessary, in order to obtain the facts respecting liability to legacy taxes where the records are insuffi-

cient, he can exercise the authority vested in him by section 3173, Revised Statutes, and also by section 3163, as amended by section 1 of the Act of August 15, 1876, and may summon the executors, administrators, or other persons he may deem proper, to appear and testify under oath." (a)

"SECT. 31. That all administrative, special, or stamp provisions of law, including the laws in relation to the assessment of taxes, not heretofore specifically repealed, are hereby made applicable to this Act."

Section 3420 of the Revised Statutes provides that all bank checks, drafts, or orders as aforesaid, issued by the officers of the United States Government, or by officers of any State, county, town, or other municipal corporation, are exempt from taxation: *Provided*, That it is the intent hereby to exempt from liability to taxation such State, county, town, or other municipal corporations in the exercise only of functions strictly belonging to them in their ordinary governmental and municipal capacity. (b) The Act of March 3, 1883, repealing the stamp tax on bank checks, etc., does not appear to specifically repeal the above section, and it would seem as if it were in operation by the provisions of section 31. The Commissioner has just ruled that checks drawn by officers of States, counties, and municipalities for the discharge of the obligations of such, and of United States disbursing officers in discharge of their official duties, are exempt. (c) By the Act of March 3, 1875, ch. 127, § 6, (d) stamps are not required on savings-bank receipt-books. (e)

"SECT. 32. That the Secretary of the Treasury is authorized to borrow from time to time, at a rate of interest not exceeding three per centum per annum, such sum or sums as, in his judgment, may be neces-

(a) Regulations and Instructions concerning the Tax on Legacies and Distributive Shares (Series 7, No. 3, Revised), United States Internal Revenue, issued June 20, 1898.

(b) See *United States v. Mann*, 95 U. S. 580.

(c) See Commissioner's rulings cited under section 25.

(d) 18 Stats. 340.

(e) See *United States v. Mann*, 95 U. S. 580.

sary to meet public expenditures, and to issue therefor certificates of indebtedness in such form as he may prescribe and in denominations of fifty dollars or some multiple of that sum; and each certificate so issued shall be payable, with the interest accrued thereon, at such time, not exceeding one year from the date of its issue, as the Secretary of the Treasury may prescribe: *Provided*, That the amount of such certificates outstanding shall at no time exceed one hundred millions of dollars; and the provisions of existing law respecting counterfeiting and other fraudulent practices are hereby extended to the bonds and certificates of indebtedness authorized by this Act."

This section is taken principally from the Acts of June 30, 1864, ch. 172, § 1 (13 Stats. 218); and of March 3, 1865, ch. 77 (13 Stats. 469).

"SECT. 33. That the Secretary of the Treasury is hereby authorized to borrow on the credit of the United States from time to time as the proceeds may be required to defray expenditures authorized on account of the existing war (such proceeds when received to be used only for the purpose of meeting such war expenditures) the sum of four hundred million dollars, or so much thereof as may be necessary, and to prepare and issue therefor, coupon or registered bonds of the United States in such form as he may prescribe, and in denominations of twenty dollars or some multiple of that sum, redeemable in coin at the pleasure of the United States after ten years from the date of their issue, and payable twenty years from such date, and bearing interest payable quarterly in coin at the rate of three per centum per annum; and the bonds herein authorized

shall be exempt from all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority: *Provided*, That the bonds authorized by this section shall be first offered at par as a popular loan under such regulations, prescribed by the Secretary of the Treasury, as will give opportunity to the citizens of the United States to participate in the subscriptions to such loan, and in allotting said bonds the several subscriptions of individuals shall be first accepted, and the subscriptions for the lowest amounts shall be first allotted: *Provided further*, That any portion of any issue of said bonds not subscribed for as above provided may be disposed of by the Secretary of the Treasury at not less than par, under such regulations as he may prescribe, but no commissions shall be allowed or paid thereon; and a sum not exceeding one-tenth of one per centum of the amount of the bonds and certificates herein authorized is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing the same."

This section was taken principally from the Act of June 30, 1864, ch. 172, § 1 (13 Stats. 218).

"Coinage of Silver Bullion.—SECT. 34. That the Secretary of the Treasury is hereby authorized and directed to coin into standard silver dollars as rapidly as the public interests may require, to an amount, however, of not less than one and one-half millions of dollars in each month, all of the silver bullion now in the Treasury purchased in accordance with the provisions of the Act approved July fourteenth, eighteen hundred and ninety, entitled 'An Act directing the purchase of sil-

ver bullion and the issue of Treasury notes thereon, and for other purposes,' and said dollars, when so coined, shall be used and applied in the manner and for the purposes named in said Act."

This section is taken principally from the Acts of Jan. 18, 1837; of June 22, 1874, ch. 419 (18 Stats. 202); of Feb. 28, 1878, ch. 20 (20 Stats. 25); of July 14, 1890, ch. 708 (26 Stats. 289); and of Nov. 1, 1893, ch. 8 (28 Stats. 4).

"Mixed Flour. — SECT. 35. That for the purposes of this Act the words 'mixed flour' shall be understood to mean the food product made from wheat mixed or blended in whole or in part with any other grain or other material, or the manufactured product of any other grain or other material than wheat."

"SECT. 36. That every person, firm, or corporation, before engaging in the business of making, packing, or repacking mixed flour, shall pay a special tax at the rate of twelve dollars per annum, the same to be paid and posted in accordance with the provisions of sections thirty-two hundred and forty-two and thirty-two hundred and thirty-nine of the Revised Statutes, and subject to the fines and penalties therein imposed for any violation thereof."

Manufacturers or Packers of Mixed Flour shall pay \$12.

These persons are not liable for this tax until on and after August 12, 1898. (a)

"SECT. 37. That every person, firm, or corporation making, packing, or repacking mixed flour shall plainly mark or brand each package containing the same with

(a) Circular No. 497 of June 25, 1898. See provisions regarding other special tax payers, *supra*.

the words 'mixed flour' in plain black letters not less than two inches in length, together with the true weight of such package, the names of the ingredients composing the same, the name of the maker or packer, and the place where made or packed. In addition thereto, such maker or packer shall place in each package a card not smaller than two inches in width by three inches in length, upon which shall be printed the words 'mixed flour,' together with the names of the ingredients composing the same, and the name of the maker or packer, and the place where made or packed. Any person, firm, or corporation making, packing, or repacking mixed flour hereunder, failing to comply with the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than two hundred and fifty dollars and not more than five hundred dollars, or be imprisoned not less than sixty days nor more than one year."

The words "with intent to defraud," etc., or their equivalent do not appear in this section. (a)

"SECT. 38. That all sales and consignments of mixed flour shall be in packages not before used for that purpose; and every person, firm, or corporation knowingly selling or offering for sale any mixed flour in other than marked and branded packages, as required by the provisions of this Act relating to the manufacture and sale of mixed flour, or who packs in any package or packages any mixed flour in any manner contrary to the provisions relating to the manufacture and sale of mixed flour of this Act, or who falsely marks or brands

(a) See *supra*, p. 31, u.

any package or packages containing mixed flour, or unlawfully removes such marks or brands, shall, for each such offence, be punished by a fine of not less than two hundred and fifty dollars and not more than five hundred dollars, or by imprisonment not less than thirty days nor more than one year."

In this section "knowingly" appears, which may be tantamount to "with intent to defraud." (a)

"SECT. 39. That in addition to the branding and marking of mixed flour as herein provided, there shall be affixed to the packages containing the same a label in the following words: 'Notice.—The (manufacturer or packer, as the case may be) of the mixed flour herein contained has complied with all the requirements of law. Every person is cautioned not to use this package or label again or to remove the contents without destroying the revenue stamp thereon, under the penalty prescribed by law in such cases.' Every person, firm, or corporation failing or neglecting to affix such label to any package containing mixed flour made or packed by him or them, or who removes from any such package any label so affixed, shall, upon conviction thereof, be fined not less than fifty dollars for each label so removed."

Compare this provision with what is required of cigar manufacturers. (b)

The words "with intent," etc., do not appear here. (c)

"SECT. 40. That barrels or other packages in which mixed flour may be packed shall contain not to exceed one hundred and ninety-six pounds; that upon the man-

(a) *Supra*, p. 31, n.

(b) *Supra*, p. 22.

(c) *Supra*, p. 31.

ufacture and sale of mixed flour there shall be levied a tax of four cents per barrel or other package containing one hundred and ninety-six pounds or more than ninety-eight pounds ; two cents on every half barrel or other package containing ninety-eight pounds or more than forty-nine pounds ; one cent on every quarter barrel or other package containing forty-nine pounds or more than twenty-four and one-half pounds ; and one-half cent on every one-eighth barrel or other package containing twenty-four and a half pounds or less, to be paid by the person, firm, or corporation making or packing said flour. The tax levied by this section shall be represented by coupon stamps, and the provisions of existing laws governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff shall, so far as applicable, be made to apply to stamps provided in this section : *Provided*, That when mixed flour, on the manufacture and sale of which the tax herein imposed has been paid, is sold and then repacked without the addition of any other material, such repacked flour shall not be liable to any additional tax ; but the packages containing such repacked flour shall be branded or marked as required by the provisions of section thirty-seven of this Act, and shall contain the card provided for in section thirty-seven hereof ; and in addition thereto the person, firm, or corporation repacking mixed flour shall place on the packages containing the same a label in the following words : ‘ Notice. — The contents of this package have been taken from a regular statutory package, upon which the tax has been duly paid.’ Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than two hundred and fifty dollars

and not more than five hundred dollars, or by imprisonment not to exceed one year."

"SECT. 41. That whenever any person, firm, or corporation sells, consigns, or removes for sale, consignment, or consumption any mixed flour upon which the tax required by this Act has not been paid, it shall be the duty of the Commissioner of Internal Revenue, for a period of not more than one year after such sale, consignment, or removal, upon satisfactory proof, to estimate the amount of tax which should have been paid, and to make an assessment therefor and certify the same to the collector of the proper district. The tax so assessed shall be in addition to the penalties imposed by this Act for an unauthorized sale or removal." (a)

"SECT. 42. That all mixed flours, imported from foreign countries, shall, in addition to any import duties imposed thereon, pay an internal-revenue tax equal in amount to the tax imposed under section forty of this Act, such tax to be represented by coupon stamps, and the packages containing such imported mixed flour shall be marked, branded, labelled, and stamped as in the case of mixed flour made or packed in the United States. Any person, firm, or corporation purchasing or receiving for sale or repacking any such mixed flour which has not been branded, labelled, or stamped, as required by this Act, or which is contained in packages which have not been marked, branded, labelled, or stamped as required by this Act, shall, upon conviction, be fined not less than fifty dollars nor more than five hundred dollars."

The words "with intent," etc., do not appear here. (b)

(a) See, for provisions regarding assessments, *supra*, pp. 5, 22.

(b) See *supra*, p. 31.

“SECT. 43. That any person, firm, or corporation knowingly purchasing or receiving for sale or for re-packing and resale any mixed flour from any maker, packer, or importer, who has not paid the tax herein provided, shall, for each offence, be fined not less than fifty dollars, and forfeit to the United States all the articles so purchased or received, or the full value thereof.”

“Knowingly” appears here. (a)

“SECT. 44. That mixed flour may be removed from the place of manufacture or from the place where packed for export to a foreign country without payment of tax or affixing stamps or label thereto, under such regulation and the filing of such bond and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Every person, firm, or corporation who shall export mixed flour shall plainly mark on each package containing the same the words ‘mixed flour,’ and the names of the ingredients composing the same, the name of the maker or packer, and the place where made or packed, in accordance with the provisions of sections thirty-six to forty-five, inclusive, of this Act.”

“SECT. 45. That whenever any package containing mixed flour is emptied, it shall be the duty of the person in whose possession it is to destroy the stamp thereon. Any person disposing of such package without first having destroyed the stamp or mark or marks thereon shall, upon conviction, be punished by a fine not exceeding the sum of twenty-five dollars.”

Compare these provisions with the provisions as to the cancelling of stamps on tobacco (b) and cigars. (c)

(a) See *supra*, p. 31.

(b) *Supra*, p. 27.

(c) *Supra*, p. 22, n.

“SECT. 46. That all fines, penalties, and forfeitures imposed by section thirty-six to section forty-five, both inclusive, of this Act may be recovered in any court of competent jurisdiction.”

“SECT. 47. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying into effect the provisions relating to the manufacture and sale of mixed flour, being section thirty-five to section forty-nine, both inclusive, of this Act, and the said Commissioner of Internal Revenue, by and with the approval of the Secretary of the Treasury, for the purpose of carrying said last-mentioned provisions of this Act into effect, is hereby authorized to employ such additional clerks and agents as may be necessary for that purpose, not to exceed twenty in number.”

“SECT. 48. That any person, firm, or corporation found guilty of a second or any subsequent violation of any of the provisions of section thirty-six to section forty-five, both inclusive, relating to the manufacture and sale of mixed flour as aforesaid, of this Act shall, in addition to the penalties herein imposed, be imprisoned not less than thirty days nor more than ninety days.”

“SECT. 49. That the provisions of this Act relating to the manufacture and sale of mixed flour shall take effect and be in force sixty days from and after the date of the passage of this Act; and all packages of mixed flour found on the premises of any person, firm, or corporation on said day, who has made, packed, or re-packed the same, on which the tax herein authorized has not been paid, shall be deemed taxable under the

provisions of section thirty-six to section forty-five, both inclusive, of this Act, and shall be taxed and have affixed thereon such marks, brands, labels, and stamps as required by the provisions of said sections or by the rules and regulations prescribed by the Commissioner of Internal Revenue, under authority of this Act."

"**Tea.** — SECT. 50. That there shall be levied, collected, and paid upon tea when imported from foreign countries a duty of ten cents per pound."

This section is taken principally from the Act of June 30, 1864, ch. 173, § 1 (13 Stats. 202).

"SECT. 51. That this Act shall take effect on the day next succeeding the date of its passage except as otherwise specially provided for."

In general a statute takes effect only from the point of time in the day on which it was actually approved. (*a*)

(*a*) *Burgess v. Salmon*, 97 U. S. 381.

APPENDIX.

Internal Revenue Circular No. 495, of June 14, 1898.

Relative to the Provisions of the Act of June 13, 1898, increasing the Tax on Tobacco, Snuff, Cigars, and Cigarettes, and imposing Additional Taxes on such Articles.

The attention of collectors of internal revenue and other officers is called to section three of the Act of June 13, 1898, entitled "An Act to provide ways and means to meet war expenditures, and for other purposes," which provides as follows:—

TOBACCO, CIGARS, CIGARETTES, AND SNUFF.

SECT. 3. "That there shall, in lieu of the tax now imposed by law, be levied and collected a tax of twelve cents per pound upon all tobacco and snuff, however prepared, manufactured, and sold, or removed for consumption or sale; and upon cigars and cigarettes which shall be manufactured and sold, or removed for consumption or sale, there shall be levied and collected the following taxes, to be paid by the manufacturer thereof, namely, a tax of three dollars and sixty cents per thousand on cigars of all descriptions made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, and of one dollar per thousand on cigars made of tobacco or any substitute therefor, and weighing not more than three pounds per thousand; and a tax of three dollars and sixty cents per thousand on cigarettes made of tobacco or any substitute therefor, and weighing more than three pounds per thousand; and one dollar and fifty cents per thousand on cigarettes made of tobacco or any substitute therefor, and weighing not more than three pounds per thousand: *Provided*, That in lieu of the two, three, and four ounce packages of tobacco and snuff now authorized by law, there may be packages thereof containing one and two-thirds ounces, two and one-half ounces, and three and one-third

ounces, respectively, and in addition to packages now authorized by law, there may be packages containing one ounce of smoking tobacco."

"And there shall also be assessed and collected with the exceptions hereinafter in this section provided for, upon all the articles enumerated in this section which were manufactured, imported, and removed from factory or custom-house before the passage of this Act bearing tax stamps affixed to such articles for the payment of the taxes thereon, and cancelled subsequent to April fourteenth, eighteen hundred and ninety-eight, and which articles were at the time of the passage of this Act held and intended for sale by any person, a tax equal to one-half the difference between the tax already paid on such articles at the time of removal from the factory or custom-house and the tax levied in this Act upon such articles.

"Every person having on the day succeeding the date of the passage of this Act any of the above-described articles on hand for sale in excess of one thousand pounds of manufactured tobacco and twenty thousand cigars or cigarettes, and which have been removed from the factory where produced or the custom-house through which imported, bearing the rate of tax payable thereon at the time of such removal, shall make a full and true return under oath in duplicate of the quantity thereof, in pounds as to the tobacco and snuff and in thousands as to the cigars and cigarettes so held on that day, in such form and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Such returns shall be made and delivered to the collector or deputy collector for the proper internal revenue district within thirty days after the passage of this Act. One of said returns shall be retained by the collector and the other forwarded to the Commissioner of Internal Revenue, together with the assessment list for the month in which the return is received, and the Commissioner of Internal Revenue shall assess and collect the taxes found to be due, as other taxes not paid by stamps are assessed and collected."

The increased rate took effect on the date next succeeding the passage of the Act, that is the first moment of this day, June 14.

Under the above provision, two, three, and four ounce packages of tobacco or snuff are not authorized, and manufacturers will be required to discontinue the use of such packages.

Dealers having stock on hand, with stamps affixed at old rates subsequent to April 14, 1898, in excess of 1,000 pounds of manufactured tobacco, and 20,000 cigars or cigarettes, are required to

make return of such excess, to collectors on Form No. 416, within thirty days after passage of the Act, for assessment of tax as above provided. The time for rendering the return expires July 13, 1898.

Blanks are being prepared to be furnished to all dealers required to make returns herein prescribed, and will be sent to collectors as soon as possible.

Manufacturers will not be allowed to remove from factory tobacco, snuff, cigars, or cigarettes which are not properly stamped under the new law.

Proper stamps are being prepared and will be furnished to collectors upon requisition.

Collectors will be supplied with imprinted stamps denoting the new tax as soon as possible, and until supplied they will imprint the old stamps on hand with rubber stamps as heretofore directed.

Any person having possession of unaffixed stamps heretofore issued for the payment of the tax upon tobacco, snuff, cigars, or cigarettes, shall present the same to the collector of the district, who shall receive them at the price paid for such stamps by the purchaser and issue in lieu thereof new or imprinted stamps at the rate provided by said Act.

Collectors will immediately notify manufacturers of cigars and tobacco and dealers of the provisions of the law above recited as far as they are affected thereby.

Internal Revenue Circular No. 496, of June 14, 1898.

Regulations under Act of June 13, 1898, concerning the Additional Tax on Fermented Liquors stored in Warehouse — Instructions as to Brewers' Bonds.

The Act approved June 13, 1898, provides for the assessment and collection of the increased tax on all fermented liquors removed from the brewery premises prior to the passage of the Act and which, on the day next succeeding its passage, are stored in warehouse, and to which a stamp denoting the tax at the rate of one dollar per barrel had been affixed at time of removal; and for the purpose of assessing and collecting such tax the law requires return of the quantity of such fermented liquors to be made by the person owning such liquors, and subjects every person who refuses or neglects to make the required return at the time and in the manner provided by law and regulation to an assessment of fifty

per cent in addition to the amount of tax due. For making a false or fraudulent return the law imposes a fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

Under the above provisions, it becomes the duty of every person, whether owner, or broker, commission merchant, or other agent for the owner, having stored in warehouse any fermented liquors which have been removed from the brewery where produced prior to the passage of the said Act, bearing the proper stamp expressing the rate of tax payable thereon at the time of such removal, to make and render to the collector of the district a full and true return, under oath, of the quantity thereof so held, in whatever packages the same may be contained.

For this purpose Form No. 417 has been provided and is hereby prescribed for use. The return must be made on said form, and verified by oath, and rendered to the collector or any deputy collector in duplicate upon demand therefor. But if not previously rendered it must be made to the collector on or before the tenth day of July, 1898.

Collectors will proceed at once (in case they have not already done so) to furnish every person in their respective districts having or supposed to have on storage liquors for which this return must be made (omitting the ordinary supply for immediate use on premises of retail liquor dealers or retail dealers in malt liquors), two copies of such form, and to require return to be made thereon forthwith in accordance with the "instructions" printed on the back thereof. Attention is called to the fact that the return must show the quantity on hand on the morning of the day succeeding the passage of the Act. If any liquors have been removed in the interval between that time and the time when the return is actually made, the quantity returned will be the quantity on hand when the return is made, together with the quantity removed in the interval.

Collectors will also require an inventory to be taken at the earliest practicable date of the stock of fermented liquors on hand at each place of storage in their respective districts, subject to the increased tax under the provisions of the Act above referred to. Such inventory is to be made by a deputy collector, who will make report of the same, in duplicate, on Form 418, which is hereby prescribed for that purpose.

One copy of the return, Form 417, and one copy of the corresponding inventory on Form 418 in each case, will be forwarded to the Commissioner of Internal Revenue. This return and inventory

are to be used for the determination of the amount of tax due on fermented liquors of the kind above described. Accordingly the amount found due will be entered by the collector on the list, Form 23, which is to be forwarded to the Commissioner of Internal Revenue on or before the tenth day of July, 1898.

The increase in the rate of tax will probably necessitate the giving of new bonds by all brewers, as the law requires the bonds of brewers to be in a sum equal to three times the amount of the tax which, in the opinion of the collector, the brewer will be liable to pay during any one month. New bonds in sufficient amounts must be required in all cases where the present bond is too small to satisfy the requirements of the law in this respect.

Brewers' bonds given on or after July first must bear a documentary stamp for fifty cents as by the statute provided.

Collectors will furnish a copy of this circular to every person interested within their respective districts.

**United States Internal Revenue (Series 7, No. 24, issued
June 23, 1898).**

*Regulations concerning the Exportation, without Payment of Tax,
or with Benefit of Drawback of Tax.*

EXPORTATION IN BOND.

The concluding paragraph of section 22, Act of June 13, 1898, provides —

“That articles upon which stamp taxes are required by this Act may, when intended for exportation, be manufactured and sold or removed without having stamps affixed thereto, and without being charged with tax as aforesaid; and every manufacturer or maker of any article as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may be from time to time prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.”

ARTICLE I. Where any of the articles above described are to be withdrawn from the place of manufacture, for export, the party intending to export the same will file with the collector of internal revenue a bond in the following form, this bond to be in duplicate, one copy to be retained by the collector and one forwarded to the Commissioner of Internal Revenue: —

FORM A.

Know all men by these presents, that we, ———, as principal, and ——— and ———, as sureties, are held and firmly bound to the United States of America in the sum of ——— dollars; for the payment whereof to the United States we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; as witness our hands and seals this ——— day of ———, 189—.

The condition of this obligation is such, that whereas, the above bounden principal intends to remove from the place of manufacture, located at ———, in the ——— district, State of ———, certain articles enumerated in Schedule B of an Act of Congress, approved June 13, 1898, without payment of the internal revenue tax, for exportation from the United States under the provisions of section 22 of the said Act.

Now, therefore, if the said principal shall, as to all such articles so removed from the place of manufacture for exportation, faithfully and fully comply with all the requirements of said Act of Congress and regulations issued pursuant thereto; and shall furnish or cause to be furnished to the collector of internal revenue for said district, and to the Commissioner of Internal Revenue, and within ninety days from the date of each such removal, satisfactory evidence showing that the said articles have been duly entered for export and actually cleared for a port or place without the jurisdiction of the United States, or shall, in case the prescribed evidence of clearance is not so furnished, file with the collector aforesaid and within the time above specified other proof satisfactory to that officer and to the Commissioner of Internal Revenue, of the actual exportation of the said articles to a foreign country, then this obligation to be void; otherwise, to remain in full force and virtue.

—————. [L. S.]
 —————. [L. S.]
 —————. [L. S.]

Sealed and delivered in the presence of —

—————.
 —————.

ART. 2. The penal sum of the foregoing bond must at least equal double the amount of tax on the estimated quantity of articles to be removed for exportation by the principal during a period of three months, and in no case less than \$5,000. In case the penalty

of the bond given is found to be insufficient, or in case of death, insolvency, or removal of either of the sureties, or for any other good cause, the collector of the district will require a new and satisfactory bond to be executed, and will forward a copy thereof to the Commissioner of Internal Revenue as in the case of an original bond.

An account shall be kept with each bond, either upon the bond or otherwise, in which account the principal will be charged with the tax on each lot removed for exportation in the manner herein-after provided, and will receive credit for the tax on each lot concerning which satisfactory proof of exportation is received.

REMOVAL OF ARTICLES FROM MANUFACTORY.

ART. 3. Upon acceptance of the foregoing bond by the collector, the exporter will be permitted, subject to the following conditions, to remove from the place of manufacture any of the articles above described for export, in such lots and at such times as he may desire:—

The goods so removed may be entered at any port of entry in the manner hereinafter provided, and where the manufactory is located at a place remote from a port of entry, the manufacturer may, if he so desires, forward his goods to any such port, to be there held for export for a period not exceeding, however, sixty days, and in quantities not exceeding in value, including the tax, one-half of the penal sum of his export bond. If at the expiration of sixty days the articles so held are not exported, the same should be returned to the manufactory as provided in Art. 12.

ART. 4. Before removal of the articles from the place of manufacture, either for immediate or future exportation, each case containing the articles must have marked or branded thereon, in letters and figures of not less than one-half inch in height, the manufacturer's name and district; the words "For Export," and also a distinctive serial number by which each case may be fully identified. The serial numbers so used will commence with No. 1 for the first case, and will run consecutively so that no two or more cases shall be marked with the same number.

To avoid confusion in the matter of numbering the cases, and in specifying the serial numbers on the various returns, the cases should be removed from the manufacturer's premises (and so far as practicable exported) in the same order in which they are numbered. Where the articles are to be held at a port of entry for future shipment, each case so held must contain goods only of the same kind and taxable value, *i. e.*, different articles, or like arti-

cles of a different taxable value, must, under no circumstances, be packed in the same case.

ART. 5. The goods when so removed, must be consigned directly to the collector of customs, and the exporter will procure triplicate bills of lading, two of which he will file with the collector of internal revenue of the district from which the removal is made, and one he will forward to the collector of customs, by such conveyance and at such times as will insure its receipt by said collector of customs in advance of the arrival of the goods. The collector of internal revenue will send one of the bills of lading delivered to him to the Commissioner of Internal Revenue with his bonded account. (Art. 13.)

The bills of lading must clearly state the name and address of the collector of customs to whom the goods are to be delivered, and must not contain any condition or agreement which will impair the obligation of the exporter and transportation company to forward and deliver such goods to the designated collector of customs.

ART. 6. Where the goods so received at the port of entry are intended for export at some future date, or if the vessel from any cause be not prepared to receive the same, they will, under such conditions and surveillance, guaranteeing their safe custody, as the collector of customs may require, be deposited in a private warehouse owned by or under control of the principal of the bond, Form A, until the vessel is ready to receive the goods, or, in case the vessel has already sailed, until another vessel is ready to convey them to a foreign port; or if, under such circumstances, the principal of the bond, Form A, should neglect to store the goods as above provided, they shall be stored by the collector of customs at the expense of the principal of said bond.

ART. 7. Where articles are removed for export as above provided, the manufacturer will, on the first day of each month, or within five days thereafter, file with the collector of the district in which the manufactory is situated, a monthly statement, *in duplicate*, in the following form, of all articles so removed during the preceding month, the duplicate of which statement will be forwarded by the collector with his Bonded Account (Art. 13) to the Commissioner of Internal Revenue:—

FORM B.

United States Internal Revenue.

Statement of articles subject to internal revenue tax manufactured by ————, at ————, in the ———— collection district

of ———, and removed from the place of manufacture during the month of ———, 189—, for export in bond, free of tax, under the provisions of section 22 of an Act of Congress, approved June 13, 1898, viz.:—

Date of removal.	Number of cases.	Serial numbers of cases.	Specific description of articles.		Rate of tax.	Amount of tax.		Port of entry.	Foreign port.
			Kind.	Number of bottles or packages.					
	(a)								

I, ———, do solemnly swear that the foregoing statement contains a true, full, and accurate description of all articles subject to an internal revenue tax removed from the above-named premises without payment of said tax, during the month specified; and that the said articles are truly intended to be exported from the United States, as above stated, and that the same will not be sold or disposed of for any other purpose whatsoever.

—————, [In case of a company or corporation, to be signed by the president or chief officer.]

Subscribed and sworn to before me this ——— day of ———, 189—.

————— [SEAL.]

ENTRY OF ARTICLES FOR EXPORT.

ART. 8. On arrival at the port of export, the goods, unless intended for immediate exportation, will be stored under the direction of the collector of customs as provided in Art. 6; and, in either case, the exporter, or his duly authorized agent, will, at least six hours prior to the lading of the goods on the foreign bound vessel or car, file with the collector an export entry, in duplicate, and in the following form:—

(a) Where any number of cases removed on the same day contain articles of the same kind and quantity, such cases and contents may be reported in aggregate, as, 50 cases Bilious Bitters, one dozen bottles each, etc.

FORM C. (PART 1.)

Export Entry.

Entry of articles subject to internal revenue tax received from _____, of the _____ collection district of the State of _____, under bond dated _____, 189—, for immediate exportation to _____, on board the _____, whereof _____ is master or conductor, viz.:—

Number of cases.	Marks and serial numbers.	Article.	Number of taxable packages.	Rate of tax, cents.	Amount of tax.
		Value, \$			

I, _____, do solemnly swear that the articles described in the above entry are truly intended to be immediately exported to the port of _____, and are not intended to be relanded within the limits of the United States. _____.

Sworn and subscribed to before me, this _____ day of _____ 189—.

[SEAL.]

Collector of Customs, Port of _____.

ART. 9. In addition to the foregoing entry the exporter will, before the vessel or car upon which the merchandise is laden has departed for the foreign port or port of transshipment, file with the collector of customs with whom such entry is filed a bill of lading covering such merchandise, the validity of which is to be certified to by the collector in his certificate of exportation (Form C, Part 4). In cases of transshipment the exporter will also file with the collector at the port of transshipment a like bill of lading conditioned for the delivery of the goods at a foreign port, unless a *through* bill of lading will have been lodged with the collector at the port where the export entry is filed.

Where the articles are to be so transshipped the same proceeding will be had, as to reinspection and clearance of the article at the port of transshipment, as provided in case of exportation of like articles with benefit of drawback. (See Articles 14 to 35 inclusive.)

ART. 10. Upon receiving the foregoing entry, the collector of customs will indorse on the *duplicate* thereof an order for examination and shipment, and will deliver the same to the surveyor.

The orders will be in the following form:—

FORM C. (PART 2.)

No. —.

Order for Examination and Shipment.

PORT OF —, —, 189—.

TO THE SURVEYOR: You will direct the proper officer to examine and ascertain the quantity, marks, and proper description of the merchandise transported by —, —, for shipment on board the — as per the annexed entry, and mark with some appropriate device each case thereof, and superintend the lading of the same on board said vessel, car, train, wagon, or wagon train, as the case may be, and make due return to this office.

—,
Collector.

To this order the surveyor will append his order to the inspector, viz.:—

Inspector — will execute the foregoing order.

—,
Surveyor.

The inspector will examine and superintend the lading of the goods, and will append his report thereof to Form C, Part 2, in the following form:—

FORM C. (PART 3.)

PORT OF —, —, 189—.

I hereby certify that —, described in the within entry, were, on the — day of —, 189—, examined by me; that they were, in my presence, laden on board the —, of which — is master, bound for —, in —; and that they were found to be as described in the within entry, with the following exceptions:

—,
Inspector of Customs.

The inspector will then return the order, Form C, Part 2, with his report appended thereto, to the collector of customs.

If there is any deficiency in the quantity or any discrepancy between the goods and their description in the entry, the inspector of customs will note the facts in his report; and if he has any suspicion of fraud he will at once inform the collector of customs, who will seize the goods and report the case to the United States district attorney.

ART. 11. After the articles have been duly inspected, laden, and cleared, and, in case of transshipment, on receipt of the proper certificate of transshipment and exportation (Art. 9), the collector of customs will issue his certificate in the following form, which certificate, together with the *original* export entry, Form C, Part 1, will be at once forwarded to the collector of internal revenue of the district from which the articles were received:—

FORM C. (PART 4.)

OFFICE OF COLLECTOR OF CUSTOMS,
Port of ———, ———, 18—.

I hereby certify that, on the ——— day of ———, 18—, the following described merchandise was duly laden on board the ———, whereof ——— is master, in pursuance of order No. ———, heretofore issued from this office, and that said merchandise was duly entered on the outward manifest of said vessel, and that said vessel and cargo were cleared from this port (*a*) on the ——— day of ———, 18—, for the port of ———.

Number of cases.	Marks and serial numbers.	Article.	Number of taxable packages.			Rate of tax, cents.	Amount of tax.		
		Value, \$							

And I do further certify that a proper bill of lading, covering the above named merchandise, has been filed in this office.

Witness my hand and official seal this ——— day of ———, 18—.
[SEAL.]

—————,
Collector of Customs.

To ———, Esq.,
Collector of ——— *District of* ———.

(*a*) In case of transshipment of the article at another port, the certificate will be here modified to meet the requirements of the case.

If from accident, or other good cause, the foregoing evidence of clearance cannot be furnished by the exporter, application for relief may be made in the manner provided in case of exportation of like articles with benefit of drawback. (See Art. 34.)

RETURN OF ARTICLES TO MANUFACTORY.

ART. 12. Where articles, removed from the place of manufacture and stored at a port of export, are not exported within sixty days from the date of such removal, the same should be immediately returned to the manufactory. In such cases the manufacturer will obtain, and file with the collector of the district from which the removal was made, a bill of lading covering the return of the goods to the manufactory; and if upon inspection, to be made by an officer to be assigned for that purpose, the goods so returned are found to agree with those specified in the manufacturer's statement, Form B, the amount of tax due on such articles will be credited on the exporter's bond, Form A.

COLLECTOR'S BONDED ACCOUNT.

ART. 13. Every internal revenue collector from whose district any of the aforementioned articles are removed in bond for export, will render a monthly account of such articles to the Commissioner of Internal Revenue, to be adjusted monthly, so as to exhibit a true statement of the liability of every such collector on this account; said account, made on Form C,—94, will be transmitted, with the accompanying vouchers, to the Commissioner of Internal Revenue on or before the tenth day of the month immediately succeeding that for which the account is rendered.

The first part of the account will show in detail each lot removed for exportation by each manufacturer during the month.

The second part will show in detail the quantities exported and of taxes paid on deficiencies, which, with the quantity unaccounted for at the end of the month and shown in detail in the third part of the account, will constitute the credit side of the account. Each item of credit on account of exportation must be accompanied by the vouchers, Form C (Parts 1, 2, 3, and 4), and the required Bill of Lading, showing that the articles specified had been duly exported.

The third part of the account will exhibit a detailed statement of all articles removed for which no certificates of clearance and exportation, Form C, Part 4, have been received. Upon the last page of the account will be exhibited a recapitulation showing the

aggregates of the three detailed statements therein given, as well as the balance unaccounted for, brought forward from the last previous month's report. Collectors will, upon making up this account each month, note the date of each certificate, Form C, Part 5, and, in case such certificate is overdue, he will promptly notify the exporter and collector of customs of the fact. If the evidence of clearance is not received within thirty days of such notice, the collector will report the matter to the Commissioner of Internal Revenue.

Collectors will furnish parties engaging or intending to engage in the business of manufacturing and exporting the aforementioned articles, in their respective districts, with a copy of these regulations. None of the forms herein prescribed will be furnished by the Commissioner of Internal Revenue, except the collector's bonded account.

EXPORTATION OF TAX-PAID ARTICLES WITH BENEFIT OF DRAWBACK.

Section 26 of the Act approved June 13, 1898, provides —

“There shall be an allowance of drawback on articles mentioned in Schedule B of this Act on which any internal-revenue tax shall have been paid, equal in amount to the stamp tax paid thereon, and no more, when exported, to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal taxes not otherwise appropriated: *Provided*, That no allowance of drawback shall be made for any such articles exported prior to July first, eighteen hundred and ninety-eight. The evidence that any such tax has been paid as aforesaid shall be furnished to the satisfaction of the Commissioner of Internal Revenue by the person claiming the allowance of drawback, and the amount shall be ascertained under such regulations as shall be prescribed from time to time by said Commissioner, with the approval of the Secretary of the Treasury.”

Section 3443 of the Revised Statutes of the United States provides that —

“Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal duty shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid as aforesaid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of five hundred dollars, at the election of the Secretary of the Treasury.”

ART. 14. Under the following regulations articles on which a drawback of tax is to be claimed may be entered for export by the owner, or by his duly authorized agent (Art. 16), as follows:—

(a) *For Direct Exportation.*—In such cases the article may be entered at any outward port for immediate exportation to a foreign port, or at any frontier port when the article is to be exported to adjacent foreign territory.

(b) *For Transshipment for Export.*—In such cases the article may be entered either at an outward port or at an interior port for transshipment to some other port from which the exporting vessel or car is to clear for a foreign country.

(c) *For Exportation through a Frontier Port in Sealed Cars over Bonded Routes.*—In such cases the article may be entered at any port from which such cars clear for export, and, where the locks and seals upon the cars are found intact, no reinspection of the article at the frontier port will be required.

ART. 15. To obtain the drawback in either of the foregoing named cases, the exporter, either in person or through a duly authorized agent (Art. 16), must at least six hours prior to shipment for export file with the collector of customs at the port from which the shipment is made the following entry *in duplicate*:—

FORM AA.

No. —

For Internal Revenue Drawback.

PORT OF ———, ———, 189—.

Entry of merchandise upon which internal revenue tax has been paid, intended to be exported by me [or us, as the case may be] to ——— [here name the foreign port], by the way of ——— [here name domestic port if article is to be transhipped for export] by the ——— [here name vessel or car], now lying at ———.

Marks and numbers.	Kind of merchandise.	Number of packages.	Contents of packages.	Value.	Rate of tax.	Denomination of stamps affixed.	Face value of stamps affixed.	Name and district of manufacturer.
							\$	
Less commission allowed by law.....							\$	

—————, *Exporter.*

Oath of Exporter.

I, _____, do solemnly, sincerely, and truly swear that the articles described in the foregoing entry, to be laden on board the _____, are truly intended to be exported as therein stated, and not to be brought back or relanded within the limits of the United States. And I do further swear that the kind, quantity, and value of said merchandise as stated in said entry are correct; that the internal revenue tax thereon, amounting to \$_____, 100, (a) has been paid; that _____, of _____, (b) is [or are] justly entitled to a drawback of said tax to the amount stated; and that no previous allowance or drawback has been made or claimed on said merchandise or any part thereof.

_____, *Exporter.* (c)

Subscribed and sworn to before me this _____ day of _____, 189—.

[SEAL.]

_____.

The foregoing affidavit must, in every case, be executed before a collector of customs or other officer authorized to administer oaths and having a seal.

ART. 16. Should the exporter reside in a place other than the one from which said merchandise is exported, the foregoing entry and oath may be executed and signed by an agent, provided such agent has personal knowledge of the facts mentioned therein, on filing with the collector of customs, and also with the collector of internal revenue in charge of exports and drawbacks at the port of exportation, a satisfactory power of attorney, duly executed by said exporter, authorizing the said agent to transact such business in his behalf. When such power of attorney has once been filed, the same will be deemed sufficient to authorize the execution of said forms at any time thereafter until notice of its revocation has been filed with said officers, or until they shall have reason to believe that the exporter has ceased to employ said agent in such capacity. Whenever an affidavit shall be made on behalf of an exporter by his duly authorized agent, or for any business firm by a partner

(a) The amount here stated should be the amount, *less* the commission allowed upon the purchase of the stamps.

(b) Here state the full address of the exporter.

(c) In case the exporter is a firm, this affidavit will be signed by a member of the firm cognizant of the facts, and the words "member of firm of _____" [here insert name of firm] will immediately precede the word "exporter."

thereof, the fact of such authority or partnership must be clearly stated therein.

ART. 17. In addition to the foregoing entry the exporter will, before the vessel or car upon which the merchandise is laden has departed for a foreign port or port of transshipment, file with the collector of customs with whom such entry is filed a bill of lading covering such merchandise, the validity of which is to be certified to by the collector in his certificate of exportation (Form E). In cases of transshipment the exporter will also file with the collector at the port of transshipment a like bill of lading conditioned for the delivery of the goods at a foreign port, unless a *through* bill of lading will have been lodged with the collector at the port where the export entry is filed.

ART. 18. Upon the receipt of the entry (Form AA), duly executed, the collector or his deputy will, in order that the merchandise may be duly inspected by an internal revenue officer before being laden on board the exporting vessel, immediately notify the collector of internal revenue in charge of exports that such entry has been filed.

The notice will be in the form following:—

PORT OF ———, ———, 189—.

SIR: You are hereby notified that an export entry has been filed in this office by ———, covering certain articles upon which the internal revenue tax is said to have been paid; and that, upon the arrival of an officer, to be designated by you, an order for the lading of such articles will be issued.

—————, *Collector of Customs.*

To ———, Esq.,

Collector in Charge of Exports and Drawbacks.

ART. 19. Upon the receipt of the foregoing notice, the collector in charge of exports will immediately detail an officer to accompany the customs officer to the place where the merchandise is located, and there make the inspection hereinafter required; and upon the arrival of the internal revenue officer at the custom-house, the collector of customs will deliver to the surveyor the duplicate entry (Form AA), with the following order indorsed thereon:—

FORM BB.

Order No. ———.

PORT OF ———, ———, 189—.

To the SURVEYOR:

You will please direct the proper officer to accompany Officer ——— to ———, and to superintend the lading of the within-

described articles, after the same shall have been duly inspected, and make due return to this office.

_____, *Collector of Customs.*

To this order the surveyor will append the following: —

Inspector _____ will execute the foregoing order.

_____, *Surveyor.*

The officer named in the order (Form BB) will, with the customs inspector, have joint custody of the duplicate entry until the examinations, comparisons, and reports are made by them, as hereinafter required.

The goods offered for shipment should be carefully inspected and identified as those described in the exporter's entry.

If upon examination it appears that the cases have been opened or otherwise tampered with, or if the officer has reason to suspect that the cases or contents are not such as are specified in the entry, he will open all such cases and examine the contents thereof, and note on his return of inspection (Form CC) the result of such special inspection, and in what particular the cases appear to be fraudulent or irregular. If evidence of fraud is obtained in any such case, the article so offered for inspection will be seized and the case reported to the United States district attorney for prosecution.

ART. 20. The inspector will, even when no suspicion is entertained by him respecting the article to be exported, open one or more cases offered for inspection, in order to fully satisfy himself as to the exact contents thereof; and that the stamps affixed to the articles are genuine and of the denomination specified in the exporter's entry.

In making the examination here ordered, inspectors will exercise great care not to injure the cases or the merchantable value of the articles shipped, and they will see that all packages opened by them are securely refastened before the same are laden on board the vessel.

To prevent possible damage in such cases, it is suggested that the closing of the packages for final shipment be delayed until the proper examination has been made, or that, in fastening the outer cases, screws be used, so that the inspector may readily and without injury to the packages have access to the stamped articles. In case screws are used, the refastening should be with nails, or in such other manner as shall prevent the reopening of the packages without apparent injury.

ART. 21. After the articles named in the exporter's entry have been duly inspected and laden, the officer detailed by the collector of internal revenue in charge of exports will make his return of inspection in the form following, to be appended to the *original* entry upon the receipt of that entry by said collector:—

FORM CC.

Return of Inspection.

PORT OF ———, ———, 18—.

I hereby certify that, in pursuance of your order of ———, 18—, the following-described merchandise, now laden on board the ——— for exportation to ———, has been duly examined by me and found to agree with the merchandise described in the export entry filed by ——— with the collector of customs of this port, except as to the following [here note discrepancies, if any. If no discrepancies are found, the preceding words "except as to the following" should be erased]:—

Marks and numbers.	Kind and description of merchandise.	Number of packages.	Contents of packages.	Value.	Rate of tax.	Denomination of stamps.	Face value of stamps.	Name and district of manufacturer.

And I further certify that of the merchandise above described, the following-described cases, selected by chance, without suggestion from any one, were opened by me at the time of said inspection and found to contain the articles as described in said entry, viz.:—

Marks and numbers.	Number of cases opened.	Contents of each case—specific description of.	Number and denomination of stamps.	Name and district of manufacturer.

ART. 22. After having laden the goods on board the vessel the customs inspector will indorse upon the duplicate entry in his possession the following :—

FORM DD.

Return of Lading.

PORT OF ———, ———, 18—.

I hereby certify that, in pursuance of the above order, the following-described merchandise has been duly laden on board the ——— for exportation to ——— :—

Marks and numbers.	Number of cases.	Kind and specific description of merchandise.

—————, *Inspector.*

ART. 23. After the articles named in the exporter's entry have been duly inspected, laden, and cleared, and in case of transshipment upon the receipt of the certificate of transshipment (Art. 31), the collector of customs with whom the entry is filed will issue his certificate in the following form :—

FORM EE.

Certificate of Exportation under Internal Revenue Acts.

Entry No. ———.

Certificate No. ———

OFFICE OF COLLECTOR OF CUSTOMS,

PORT OF ———, ———, 18—.

I hereby certify that, on the ——— day of ———, 18—, the following-described merchandise was duly laden on board the ———, whereof ——— ——— is master, in pursuance of order No. ———, heretofore issued from this office, and that said merchandise was duly entered on the outward manifest of said vessel, and that said vessel and cargo were cleared from this port (a) on the ——— day of ———, 18—, for the port of ——— :—

(a) In case of transshipment of the article at another port, the certificate will be here modified to meet the requirements of the case.

Marks and numbers.	Numbers of cases or packages.	Kinds and specific description of merchandise.

And I do further certify that a proper bill of lading, covering the above-named merchandise, has been filed in this office.

Witness my hand and official seal this _____ day of _____, 18—.

[SEAL.] _____, *Collector of Customs.*
To _____, Esq.,

Collector in Charge of Exports and Drawbacks.

ART. 24. In case the articles described in the exporter's entry have been omitted from the outward manifest of the exporter's vessel or car, the exporter may perfect his proof of exportation by filing with the collector of customs with whom the entry is filed proof of landing of the articles in a foreign country satisfactory to that officer, and in the form prescribed in customs regulations for the cancellation of bonds for the exportation of imported merchandise. Upon the receipt of such proof the collector will modify his certificate to meet the requirements of the case, and will note on such certificate that satisfactory proof of landing of the articles in a foreign country has been filed in his office.

ART. 25. After the foregoing certificate (Form EE) has been issued the same will be transmitted to the collector of internal revenue in charge of exports and drawbacks at the port from which the goods are cleared, together with the original export entry (Form AA), and in case of transshipment, the certificate of transshipment, Form FF (Art. 31), and in case of exportation in sealed cars, the transportation manifest (Art. 32).

ART. 26. The collector in charge of exports will immediately examine the proofs submitted, and, if satisfied that the claim made is a valid one, he will indorse his approval thereon, under seal, and, after recording the claim in his office, he will at once transmit all the papers in the case to the Commissioner of Internal Revenue, together with the return of inspection (Form CC) previously filed with him.

ART. 27. The evidence will be reviewed by the Commissioner, and if on examination he shall find the same satisfactory, he will award the amount due the claimant.

In calculating this amount, there will be deducted from the face value of the stamps, by which the tax was paid, the largest commission on the purchase thereof allowed by law. The amount so awarded will be paid by a warrant on the Treasurer of the United States, and a draft therefor to the order of the party entitled thereto will be sent to the collector of internal revenue in whose district the party resides for delivery.

EXPORTATION OF ARTICLES FROM A PORT OF ENTRY THROUGH
ANOTHER PORT.

ART. 28. When the articles are entered at any port for exportation through another port, the exporter will state in his entry, Form AA, the route or routes over which the articles are to be transported; and in case of shipment of proprietary articles through frontier ports, in sealed cars containing no other merchandise, the exporter thereof may, at the time of entry, apply to the collector at the port where such entry is made to have the cars containing the goods properly locked and sealed, as provided in cases of transportation of imported merchandise, in bond. In case of shipment in sealed cars a transportation manifest must be filed, as in the case of transportation of imported merchandise, and also a *through* bill of lading covering the merchandise to a foreign port.

ART. 29. Upon the receipt of the entry in either of the foregoing cases, and after the merchandise has been duly inspected and laden, the collector will transmit the *original* of said entry, without delay, to the collector of customs of the port at which the merchandise is to be transshipped, together with a copy of the transportation manifest, in case of shipment in sealed cars. He will also note upon the entry, so transmitted, whether a *through* bill of lading has been filed in his office.

ART. 30. Upon the receipt of such entry the collector at the port of transshipment will direct the proper officer to carefully examine the merchandise upon its arrival, and ascertain that the same agrees in all respects with the entry, and to superintend the lading of the goods on board the vessel or other conveyance by which the same are to be exported, or, in case the merchandise is shipped in sealed cars, to carefully examine the locks, seals, and tags, with which the cars are secured. If the inspector finds that the fastenings of the cars have not been tampered with, and that the contents of the cars have not been disturbed, the collector will allow the cars to proceed to their destination without opening the same.

If, however, the locks and seals *are not found intact*, or if the

inspecting officer has any reason to believe that the contents of the cars have been tampered with, the collector will take the merchandise into his custody, and report the facts forthwith to the Secretary of the Treasury, and also notify the collector at the port of departure.

ART. 31. In case of exportation *otherwise* than in *sealed cars*, and if the merchandise inspected is found to agree with that specified in the entry, the collector will, after the goods have been duly laden and cleared, append to the entry his certificate in the following form: —

FORM FF.

Certificate of Transshipment and Exportation.

PORT OF ———, ———, 18—.

I hereby certify that the within-described merchandise entered at the port of ———, by ——— ———, for exportation to ———, by way of ———, was brought into this port by ——— ———, on board the ———, on the ——— day of ———, 18—, and that the same has been carefully inspected and found to be without change or diminution; except as to the following [here state any discrepancy reported by the inspector]: that said merchandise was duly laden on board the ——— for exportation to ———; that said merchandise was duly entered on the outward manifest of said vessel and [unless a through bill of lading has been filed with the collector from whom the export entry was received] a proper bill of lading has been filed in this office; and that said vessel and cargo were cleared from this port on the ——— day of ———, 18—, for the port of ———.

[SEAL.]

—————, ———,

Collector of Customs.

To ——— ———,

Collector of Customs, Port of ———.

Unless a *through* bill of lading has been filed with the collector forwarding the export entry, the proper bill of lading must be filed with the collector at the port of transshipment.

ART. 32. In case of exportation in *sealed cars*, and the locks, seals, and tags upon the cars are found intact, the collector will, in lieu of the foregoing certificate, append to the entry, or transportation manifest, and under seal, the following certificate: —

PORT OF ———, ———, 18—.

I hereby certify that the within-named car, with contents, arrived at this port on the ——— day of ———, 18—, in good condition, and that upon examination the same was found to be properly locked and sealed, and that said car, with contents, cleared from this port for the port of ——— on the ——— day of ———, 18—, in like good condition and properly locked and sealed.

[SEAL.]

—————, ———,
Collector.

ART. 33. After having issued his certificate in either of the foregoing cases, the collector will return the entry, and transportation manifest, if filed, to the collector at the port from which the merchandise was originally shipped. Whereupon the collector of that port will, if the other papers in the case be satisfactory, issue his certificate (Form EE), changed to meet the requirements of the case.

SPECIAL CASES NOT OTHERWISE PROVIDED FOR.

ART. 34. If from any cause the proofs required in the foregoing regulations cannot be furnished, or any of the requirements of the regulations cannot be complied with, application for relief may be made to the Commissioner of Internal Revenue through the collector having cognizance of the facts. The application in such cases must be made under oath, and must fully and clearly set forth in what particulars the regulations have not been complied with, and the reasons therefor, and must be accompanied by a certificate of the officer transmitting the same, as to his knowledge of the alleged facts and as to the propriety of granting the relief asked for. The evidence thus submitted will be examined by the Commissioner of Internal Revenue, and if the facts warrant, relief will be granted.

ART. 35. None of the forms herein prescribed will be furnished by the Department except the certificate of exportation, Form EE (Art. 23).

Internal Revenue Circular No. 498, of June 27, 1898.

Regulations relative to Tax on Chewing Gum or Substitutes therefor.

The Act entitled "An Act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898,

provides, under Schedule B, on and after July 1, 1898, a tax on chewing gum, or substitutes therefor, as follows :—

“For and upon each box, carton, jar, or other package containing chewing gum of not more than one dollar of actual retail value, four cents ; if exceeding one dollar of retail value, for each additional dollar or fractional part thereof, four cents ; under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.”

On and after that date stamps must be affixed by the maker or manufacturer to packages of chewing gum or substitutes therefor before the same are removed from the factory for consumption or sale.

Stamps of the denomination of 4 cents have been provided for the payment of this tax. When packages exceed \$1 of retail value the manufacturer shall affix additional stamp or stamps to cover the amount of tax due on such packages.

Section 20 of the Act provides, in case of failure to affix the stamp denoting the tax, that the party shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than \$500, or be imprisoned not more than six months, or both, at the discretion of the court.

Section 22 of the Act also provides that in case of failure to affix the proper stamp as provided, with intent to evade the tax, the maker or manufacturer shall be liable to a fine of not more than \$500, or to imprisonment for not more than six months, or both, at the discretion of the court, and the articles unstamped are liable to forfeiture.

The manufacturer will, if practicable, so affix the stamp or stamps denoting the proper tax to each box, carton, jar, or package containing chewing gum before its sale or removal from the factory or place of manufacture as to effectually seal the package so that on opening the same or using the contents the stamp or stamps will be broken.

The manufacturer using or affixing the stamp shall write or stamp thereon the initials of his name, and the date upon which the same shall be attached or used.

In default thereof the party making default will be liable to the penalty imposed by section 9 of the Act.

Persons desiring to have proprietary stamps furnished from private dies should apply to the collector of the district, and furnish designs.

There shall be affixed to each and every box, carton, jar, or other package containing chewing gum, before its removal from the fac-

tory, a label on which shall be printed in plain legible letters the number of small tablets, 1 cent packages, or other small packages of chewing gum contained therein, and the retail price of each such tablet or small package of gum, in form as follows:—

One hundred 1 cent packages, retail value	\$1.00
Twenty packages, 2 for 5 cents, retail price . . . . .	.50
Sixty packages, 3 for 5 cents, retail price	1.00
Twelve packages, 5 cents each . . . . .	.60

There shall also be affixed to each package a label upon which shall be printed in plain and legible letters the manufacturer's name, with town or city address, and the number of district and the State in which the factory is located, for example: "John Doe, Manufacturer, Philadelphia, First District of Pennsylvania."

These labels may be printed on the boxes or cartons if preferred.

Samples for salesmen, or for mailing, or for free distribution, shall be taken only from packages which have been duly stamped. The stamps on emptied packages will be destroyed.

The law provides that when articles, upon which stamp taxes are required, are to be exported they may be sold or removed without having stamps affixed. It also provides for the allowance of drawback of the tax thereon when exported after tax is paid. (See sections 22 and 26, Act of June 13, 1898, and regulations, Series 7, No. 24, issued June 23, 1898.)

When chewing gum is to be sold through automatic vending or selling machines, the same is to be kept in the regularly stamped boxes, packages, or containers until placed in the machines, when the stamps shall be destroyed. The chewing gum shall be securely locked in the machine, and shall not be removed therefrom except through the regular aperture controlled by the mechanism.

At the end of each and every month the manufacturer or maker of chewing gum or substitutes therefor must make a declaration, as provided in section 23 of said Act, as follows:—

"That every manufacturer or maker of any of the articles or commodities provided for in Schedule B, or his foreman, agent, or superintendent shall at the end of each and every month make, sign, and file with the collector of internal revenue for the district in which he resides a declaration in writing that no such article or commodity has, during such preceding month or time when the last declaration was made, been removed, or carried, or sent, or caused or suffered or known to have been removed, carried, or sent from the premises of such manufacturer or maker other than such as have been duly taken account of and charged with the stamp

tax, on pain of such manufacturer or maker forfeiting for every refusal or neglect to make such declaration one hundred dollars; and if any such manufacturer or maker, or his foreman, agent, or superintendent shall make any false or untrue declaration, such manufacturer or maker, or foreman, agent, or superintendent making the same shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not more than five hundred dollars, or be imprisoned not more than six months, or both, at the discretion of the court."

All chewing gum in the hands of manufacturers or wholesale or retail dealers on the first day of July, 1898, is subject to the payment of the stamp tax, but it shall be deemed a compliance with the Act, as to such articles on hand in the hands of wholesale or retail dealers, who are not manufacturers thereof, to affix the proper adhesive stamp at the time the packages are sold at retail.

Internal Revenue Circular No. 500, of July 7, 1898.

Concerning the Use of Telegraph.

Numerous inquiries having reached this Office as to whether or not telegraphic messages dispatched by officers and employees of the Government on official business are required to be stamped under the provision of the Act of June 13, 1898, it is deemed advisable to call attention to the fact that such messages are especially exempt from stamp tax by the last proviso of section 18 of the Act referred to.

Telegrams of this character should be plainly marked "Official business," and sent "Collect" in all instances when dispatched solely in the personal interest or for the benefit of the party addressed.

In this connection attention is particularly called to the fact that the telegraph is to be used at the expense of the Government only upon important public business and in case of urgent necessity where the ordinary mail facilities do not furnish sufficient dispatch.

All telegrams sent by Internal Revenue officers or by private parties on their own personal interest must be prepaid, and all telegraphic replies to such telegrams will be sent at the expense of the parties sending the same.

Internal Revenue Circular No. 502, of July 13, 1898.*Regarding the Stamping of Bonds given by Internal Revenue Officers.*

Attention is called to the fact that the "Act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, provides in "Schedule A," as to Bonds, as follows:

"For indemnifying any person or persons, firm, or corporation who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, fifty cents."

Under the terms of the above provisions, all bonds given by officers of internal revenue to the United States for the faithful discharge of duty, as disbursing agents, for indemnifying the Government or for any other purpose whatsoever must have attached thereto a fifty-cent documentary stamp. This stamp will be affixed by the principal, and cancelled by writing, or imprinting, thereon his initials and the date when affixed.

The said Act further requires that where the guarantee is by any fidelity, guarantee, or surety company an additional stamp must also be affixed to the bond at the rate of one-half of one cent on each dollar, or fractional part thereof, of the premium charged.

A stamp of the denomination of ten cents must also be affixed to the bond, by the terms of the Act, if it bears a certificate of any description *required by law*, not otherwise specified in the Act.

This provision is not held to be applicable to the certificate directed by the Commissioner of Internal Revenue to be made by collectors on the back of bonds as to the sufficiency of the sureties, nor, in case of those of gaugers, storekeepers, and storekeeper-gaugers, that neither of the sureties is a distiller, rectifier, or a wholesale liquor dealer.

Collectors of internal revenue will be expected to see that the above requirements as to stamping of bonds are fully observed before the same are transmitted to this office.

Internal Revenue Circular No. 504, of July 20, 1898.*Concerning the Payment of Internal Revenue Tax on Premiums charged on Marine, Inland, or Fire Insurance under Open Policies.*

The paragraph relating to marine, inland, and fire insurance under Schedule A, Act of June 13, 1898, provides —

“Insurance (marine, inland, fire): Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, made by any person, association, or corporation, upon the amount of premium charged, one-half of one cent on each dollar or fractional part thereof: *Provided*, That purely coöperative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property and not for profit shall be exempted from the tax herein provided.”

Upon satisfactory representations made to this office that a strict compliance with the foregoing provisions of law, in the matter of affixing the required stamps, is impracticable in cases where insurance is effected, or renewed, under “open policies,” collectors of internal revenue are authorized, under circular letter of June 30, 1898, to allow certain marine insurance companies who had filed a satisfactory bond, to affix the required stamps to the books of the company on which the amount of premiums under such open policies are charged, to be certified to by the proper officer of the company on the first day of the following month, or within ten days thereafter.

To provide for future like cases, collectors are further authorized, upon satisfactory representations made by any marine, inland, or fire insurance company issuing open policies of insurance, that the premiums charged are not, and cannot be in the ordinary course of business, entered on such policies; and that the same will be duly entered on the books of the company as to each such policy, to allow such companies to affix the required stamps to the books on which such entries are made, as authorized in the cases first referred to.

The collector will, however, in all such cases require a satisfactory bond in the following form, to be given by the company, or by an approved surety company, and in a penal sum of not less than ten thousand dollars: —

Know all men by these presents: That the ———, a corporation of the State of ———, and having its principal office at ———, in the State of ———, is held and firmly bound unto the United States of America, in the full and just sum of ——— dollars, lawful money of the United States, to which payment well and truly to be made the said company binds itself, its successors and assigns, firmly by these presents.

Sealed with its corporate seal, and dated this ——— day of ———, 189—.

Whereas the [above bounden (a)] ——— is engaged in the business of insuring against loss or damage [here state character of risk and class of property on which such risk is assumed], and whereas the premiums charged by the said company under its open policies of insurance are subject to a stamp tax under the provisions of an Act of Congress, approved June 13, 1898; and whereas the premiums so charged, cannot, in the usual and ordinary course of its business, be charged or entered by the said company on the said open policies of insurance;

Now, therefore, the condition of this obligation is such that if the said ——— company shall, as to all premiums charged under the said open policies of insurance, on and after the first day of July, 1898, cause the same to be entered on the premium books of the said company, and shall pay the full amount of tax imposed by the Act of Congress aforesaid on all premiums so charged, and shall affix to the said premium books the required stamps denoting the payment of said tax; and shall, on the first day of each month, or within ten days thereafter, render to the collector of internal revenue for the ——— district of ———, a full and accurate statement of all premiums so charged, and the amount of tax paid thereon as aforesaid, then this obligation to be void; otherwise to remain in full force and virtue.

As conditioned in the foregoing bond, the company will, not later than the tenth day of each month, render a statement of the amount of premiums charged during the preceding month, as also the amount of tax thereon paid. The required statement should be made on Form 429, in duplicate, one copy of which will be retained by the collector and one copy forwarded to the Commissioner of Internal Revenue.

(a) Omit, if bond is given by a surety company. In such case the corporate name and principal office of the company on whose behalf the bond is given should be stated in full.

The foregoing regulations will also apply to cases where individuals or firms, acting as agents or brokers, receive or charge premiums under open policies of insurance, *in addition* to the premiums charged by the companies issuing such policies. It is to be especially noted that this provision has no reference to commissions allowed agents out of premiums charged by the companies issuing policies of insurance, as all such premiums must be reported by the companies, *in gross*, and the tax thereon paid by the companies as required by law. Attention is also especially called to the fact that the foregoing regulations have reference only to *open* policies of insurance, and not to policies or other instruments under which insurance is effected, or renewed, where the premiums charged are, or can in the ordinary course of business be, noted thereon.

In view of the fact that stamps used in payment of taxes imposed in the cases here provided for are not identifiable by serial numbers, such taxes, if paid, will not hereafter be reported by collectors on their assessment lists; and so much of circular letter of June 30, 1898, above referred to as is inconsistent herewith is hereby rescinded.

Internal Revenue Circular No. 505, of July 23, 1898.

Prescribing the Manner in which Dealers in Leaf Tobacco shall keep Book and the Mode of making Abstract of Sales to Manufacturers of Tobacco and Cigars.

Registered dealers in leaf tobacco will be required to close all accounts of their purchases and sales on their book 59 for the six months ended June 30, 1898, and to carry the balance of tobacco on hand at the close of business on that day to a new book for the quarter commencing July 1, 1898, and to transfer the Government's book for the same time, properly balanced and verified under oath, to the Collector of Internal Revenue of their respective districts, and to quarterly thereafter balance, verify, and return such books to the Collector.

Upon receiving the Government's book the collector will at once make an abstract on Form 434, properly verified by him, of all sales of leaf tobacco, refuse scraps, and sweepings of tobacco made to qualified manufacturers of tobacco, snuff, or cigars residing outside of his district, and all sales made to other persons who are not known to be qualified dealers in tobacco or exporters.

All sales made to persons within his district will be carefully

noted by the collector and compared and checked with the monthly returns made by manufacturers for the same quarter.

The verified abstracts forwarded to this office will be transcribed and forwarded to the several districts in which the persons who are shown to have purchased tobacco reside. The collectors receiving these transcripts will note the sales to such persons as reside within their respective districts, and if they are manufacturers, the transcripts will be compared and checked with the monthly returns for the months to which the transcripts refer.

A separate abstract on Form 435 will be made by collectors of all sales made to qualified dealers in leaf tobacco and exporters residing outside of their respective districts, and the same will be verified and forwarded to this office, where they will be compared with the original entries on book 59, which should be forwarded not later than the 20th day of the month immediately succeeding the close of the preceding quarter, but the abstract on Forms Nos. 434 and 435 should be first completed and forwarded to this office, and accounts with manufacturers and dealers within the district should be compared and checked before books 59 are forwarded.

These abstracts are now demanded for the purpose of exercising and maintaining a more careful official supervision of the business of manufacturers and of dealers in leaf tobacco. The office anticipates prompt and efficient co-operation on the part of collectors and other local revenue officers in this work.

Collectors having no qualified dealers in leaf tobacco in their districts, or having dealers who have not reported any sales to persons residing outside of the districts, will report the facts to this office quarterly.

To avoid unnecessary correspondence, care should be taken in giving the date of the purchase, number and kind of packages, and the actual weight of the tobacco purchased, as shown by the record, book 59.

The book, Record No. 59, required to be kept by dealers, has been revised and bound in a smaller edition than heretofore, and they will be forwarded to the several collectors who are especially charged that all dealers should be supplied at once, and kept supplied in the future, with the necessary number of these books to make complete and full entry therein of all their purchases and sales. The Government will furnish, as heretofore, one book for original entries, and the manufacturer will furnish the duplicate, as required by section 3360, Revised Statutes.

Every person must be regarded as a dealer in leaf tobacco whose business it is, for himself or on commission, to sell, or offer for sale, or consign for sale on commission, leaf tobacco.

Dealers are required to register and keep book, and shall sell only to other dealers in leaf tobacco and to manufacturers of tobacco, snuff, or cigars, and to such persons as are known to be purchasers of leaf tobacco for export.

Internal Revenue Circular No. 506, of July 28, 1898.

Examination of Telegrams and Sleeping-car Tickets.

TO COLLECTORS AND INTERNAL REVENUE AGENTS:

Hereafter in making examinations of the files of telegraph companies and sleeping-car companies to ascertain if the law has been complied with with reference to stamping telegrams and sleeping-car tickets, you are advised that such examination should be restricted to simply ascertaining if the documents referred to have been properly stamped.

These instructions are particularly applicable to telegrams where neither the public good nor the safety of the revenues requires that they should be delivered to the examining officer. In such cases it is not expected that all the telegrams sent by the company from any one point should be examined. Such examinations will be considered ample if sufficient telegrams of any date called for by the examining officer are passed through the hands of a representative of the company in the presence of the examining officer in such a manner as to enable him to see that they are properly stamped. A knowledge of the contents of the telegrams is not essential to the examining officer.

Internal Revenue Circular No. 507, of July 29, 1898.

Cancellation of Documentary and Proprietary Internal Revenue Stamps.

In any and all cases where an adhesive stamp shall be used for denoting any tax imposed by the Act of June 13, 1898, the person using or affixing the same shall write or stamp thereon, with ink, the initials of his name and the date (year) in which the same shall be attached or used, or shall by cutting and cancelling said stamp with a machine or punch which will affix the initials and date as aforesaid so deface the stamp as to render it unfit for reuse. The cancellation by either method should not so deface the stamp as to prevent its denomination and genuineness from being readily

determined. Stamps imprinted upon the face of checks, drafts, or other similar instruments may be cancelled by dating and signing the check or draft, and filling out the blank lines in writing across the face of the stamp in the usual manner of drawing checks and drafts. Stamps on checks and drafts may also be cancelled by perforating through said stamp and the paper to which it is attached the amount in figures for which said check or draft is drawn.

Where proprietary stamps printed from private dies are used for the payment of tax upon proprietary articles, instead of cancellation by initials and date, such stamps shall be so affixed on the box, bottle, or package that in opening the same or using the contents thereof the said stamp shall be effectually destroyed.

Prescribed by the Commissioner of Internal Revenue under authority conferred by the Act aforesaid.

PRACTICAL SUGGESTIONS

ADOPTED BY THE BOSTON REAL-ESTATE LAW SOCIETY,
COMMONLY KNOWN AS THE ABSTRACT CLUB,
AT BOSTON, ON SEPT. 16, 1898.

DEEDS.

1. It is recommended that the actual consideration be named.
2. The insertion of a covenant that the consideration named is the actual consideration is not advised.
3. A statement in the "*in testimonium*" clause that the grantor has affixed and cancelled the stamps required by law is advised.
4. A stamp is required, as in a lease, (a) upon a separate instrument creating an easement in land; *e. g.*, a grant of a right of way, or a mutual or unilateral party-wall agreement. (b)
5. Where a valuable consideration is paid, stamps should be affixed according to either the expressed consideration or the actual value, whichever is the higher. (c)
6. If it be desired to conceal the true consideration or value, it may be done by expressing the consideration as "one dollar and other valuable considerations," and then putting on and cancelling stamps in excess of the requirements of law.
7. Where no actual consideration, or where a nominal consideration is paid, — *i. e.*, where the transaction is not really a sale, — no stamps are required. See 9 Int. Rev. Rec. 165; 14 Id. 53.
8. Where a conveyance is made through a third person, *i. e.*, where A conveys to B, who immediately conveys to C, the conveyance from A to B should be stamped, and that from B to C should not be stamped. If the transaction, however, is a gift and not a sale, neither conveyance should be stamped. The true nature of the transaction should be made clear by recitals of the facts in each deed.

Examples: Husband to A, and A to wife. Mortgagee executing power of sale to A, and A to mortgagee.

(a) See *supra*, p. 65.

(b) See *supra*, p. 92, No. 117.

(c) See *supra*, p. 87, No. 50.

9. The acknowledgment of a deed does not require a stamp. (*a*)

10. The covenants or other statements in a deed are not certificates requiring stamps. "Signed, sealed, and delivered in presence of" requires no stamp.

11. The Register's minute as to record requires no stamp. (*b*)

12. A conveyance to heirs by an executor, administrator, or trustee, where no actual consideration is paid, requires no stamp.

13. Sheriffs' deeds require stamps. (*c*) Boutwell (4th ed.), 275.

14. A conveyance by one tenant in common to another or to a stranger, so far as it is a sale, requires stamps according to the value of the interest conveyed. But if the transaction is a partition and not a sale, stamps are not required. If, on a partition, one tenant in common receives more than his share of land, the conveyance to him should be stamped according to the excess of value of land received above his share. Boutwell (4th ed.), 282, 293, 303; 9 Int. Rev. Rec. 165; 14 Id. 53.

15. A conveyance by one joint tenant to another or to a stranger, if not a gift, is in effect a sale, and requires stamps according to the value of the interest conveyed. 14 Int. Rev. Rec. 53.

16. A deed of confirmation to correct a former deed requires no stamps. It should contain a recital of the facts and the reason for its execution. 14 Int. Rev. Rec. 53.

MORTGAGES.

17. Both note and mortgage should be stamped. The note should be stamped like an ordinary promissory note, and the mortgage as a mortgage. (*d*)

18. The power of sale in a mortgage, whether or not the mortgagee is in terms named as the attorney of the mortgagor, requires no separate stamp as a power of attorney. 3 Int. Rev. Rec. 44; 4 Id. 171; 6 Id. 130; Boutwell (4th ed.), 229.

19. The covenants, witness clause, acknowledgment, and Register's entry require no stamps. (*e*)

20. The mortgage and note must be stamped each for its full face value, irrespective of the value of the land, or of the fact that when the mortgage is given only part of the amount is actually advanced. (*f*) Bump, 350; McBride v. Doty, 23 Iowa, 122; 9 Int. Rev. Rec. 165; 14 Id. 53.

21. A mortgage for one thousand dollars or less requires no

(*a*) See *supra*, pp. 86, 90, Nos. 43, 94.

(*c*) See *supra*, p. 92, No. 116.

(*e*) See *supra*, pp. 86, 90, Nos. 43, 94.

(*b*) See *supra*, p. 86, No. 43.

(*d*) See *supra*, p. 82, No. 14.

(*f*) See *supra*, p. 92, No. 120.

stamp, but the accompanying note should be stamped like other notes. 9 Int. Rev. Rec. 165.

22. An assignment of a mortgage should be stamped at the same rate as the original mortgage, but for only the amount still due on the mortgage. If partial payments have been made, it should be so stated. (*a*)

23. An assignment of a partial interest under a mortgage—*e. g.*, when one of two mortgagees transfers his interest—should be stamped according to the then value of the interest transferred. If partial payments have been made, it should be so stated.

Example: An assignment of a mortgage for five thousand dollars, on which two thousand dollars has been paid, should be stamped as if it were a mortgage for three thousand dollars; and an assignment of a half interest in the same should be stamped as if it were a mortgage for fifteen hundred dollars.

24. The transfer of a mortgage note accompanying the assignment of a mortgage requires no stamp. (*b*)

25. An extension of a mortgage should be stamped at the same rate as the original mortgage, but for only the amount still due. If partial payments have been made it should be so stated. (*c*)

26. An extension of a note accompanying the extension of a mortgage is a renewal of the note, and should be stamped at the same rate as the original note, but for only the amount remaining due.

27. A discharge of a mortgage requires no stamp. (*d*)

28. A partial release of a mortgage requires no stamp.

CERTIFICATES.

29. "Certificates required by law" do not include those certificates which the signer is at liberty to give or not as he pleases, even though the law makes the existence of the certificate a necessary step preliminary to further proceedings (*e. g.*, the statement to be filed in beginning mechanics' lien proceedings, or the acknowledgment of deeds), or provides that the certificate shall be evidence (*e. g.*, a mortgagee's affidavit of sale under a power-of-sale mortgage). (*e*)

"Certificates required by law" include those certificates which the signer must give when called upon to do so (*e. g.*, where a

(*a*) See *supra*, pp. 92, 93, Nos. 121, 122.

(*b*) See *supra*, p. 94, No. 140.

(*c*) See *Id.*, No. 141.

(*d*) But see *supra*, p. 93, Nos. 125, 126.

(*e*) But see *supra*, p. 91, No. 99.

register of deeds or probate must give a certificate as to matters of record in his charge or certified copies of such records). (a)

Consequently the following certificates occurring frequently in practice are exempt from stamps: Acknowledgments of deeds, mortgages, etc.; (b) Mortgagor's acknowledgment of entry to foreclose; Certificate of two witnesses to prove entry to foreclose; Affidavit of sale by mortgagee under power-of-sale mortgage; (c) Statement filed in mechanic's lien proceedings; Jurats before justices of the peace or notaries. (d)

CONVEYANCE OF MORTGAGED LAND.

30. A conveyance of land subject to a mortgage is to be stamped as if the land were unencumbered.

31. A conveyance of land where the grantee immediately gives a mortgage back for part of the purchase-money should be stamped as if the full consideration had been paid.

32. A conveyance by a mortgagee under a power in a power-of-sale mortgage, whether it be a first or a subsequent mortgage, is to be stamped like a conveyance of the land unencumbered. (e)

MISCELLANEOUS.

33. An executory contract of sale of real estate requires no stamps.

34. Where a lease or other instrument requiring stamps is made in duplicate, — *i. e.*, where there are two originals, — one only requires a stamp. The one not stamped should recite that the other is stamped. (f)

35. An assignment of a policy of insurance is to be stamped at the same rate as the original policy; *i. e.*, the stamp to be in the same proportion to the original stamp as the unexpired portion of the term is to the full term. (g)

Example: A policy for five years with a premium of \$100, and bearing a stamp for 50 cents, is assigned at the expiration of three years. The assignment is to be stamped at one-half of one per cent on \$40, *i. e.*, 20 cents. This covers both assignments on a conveyance of real estate, and orders making the policy payable in case of loss to mortgagees.

(a) See *supra*, pp. 89, 90, Nos. 79, 91.

(b) See *supra*, pp. 86, 90, Nos. 43, 94.

(c) See *supra*, p. 88, No. 64.

(d) See *supra*, p. 86, No. 45.

(e) Nos. 30, 31, and 32 proceed on the theory that the value of the land, irrespective of the mortgage, is the basis of computing the tax.

(f) But see *supra*, p. 94, No. 136.

(g) See *supra*, p. 93, No. 131.

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